John Quincy Adams' Request for Papers Relating to the Lower Court Trials of the Amistad Africans [Petition for Certioriari], 1841

The United States. Appt
vs
42.

The Libellants & Claimants of the Schooner Amistad, her tackle Apparel and furniture, together with her Cargo, and the Negroes mentioned and described in the several Libels and Claims.

On appeal from the Circuit Court of the United States for the District of Connecticut.

This Cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Connecticut and was argued by Counsel. On consideration whereof, It is the opinion of this Court, that there is error in that part of the decree of the Circuit Court affirming the decree of the District Court which ordered the said Negroes to be delivered to the President of the United States to be transported to Africa in pursuance of the act of Congress of the 3d of March 1819; and that as to that part it ought to be reversed; and in all other respects that the said decree of the Circuit Court ought to be affirmed. It is therefore ordered adjudged and decreed by this Court that the decree of the said Circuit Court be and the same is hereby affirmed except as to the part aforesaid, and as to that part that it be reversed; and that the cause be remanded to the Circuit Court with directions to enter in lieu of that part a decree that the said Negroes be and are hereby declared to be free and that they be dismissed from the custody of the Court and be discharged from the suit and go thereof quit without day.

March 9. 1841.

6

CC-72
98.

Charge 2... Disobedience of Orders.

Specification 1... In this, that he the said Cadet Poe, after having been duly directed by the Officer of day to attend Church on the 23 January 1831, did fail to obey such order; this at West Point, New York,

Specification 2... In this, that he the said Cadet Poe, did fail to attend the Academy on the 25 January 1831, after having been directed so to do by the Officer of the day: this at West Point, New York.

By order of Lt. Col. Thayer.

(Signed) C. F. Smith
Asst Adjt

Witnesses:

Cadet B. Bonneau
" R. Allen
" F. Ogden
" Curtis
" S. H. Miller

No. 42.

The U. States
+
Schr. Amistad &c.

Mon. of Mr. Adams
for Certiorari &c.
Filed 26th Jany. 1841.

Upon Certificate
as stated from
to the Judges of
the Circuit Court
B. B. Taney

John Quincy Adams.

A draft of a brief delivered before the U.S. Supreme Court, 1839-1841.

(a.) Constans et perpetua voluntas, jus Suum cuique tribuendi.
The constant and perpetual will to secure to every one his own right.
To every one his own!

(b) ∧ for himself alone

(c.) At an early period of my life, it was my fortune to witness the representation upon the Stage of one of the tragic masterpieces of the great dramatist of England, or I may rather say of the great dramatist of the world; and in that Scene which exhibits in action the sudden, the instantaneous fall from unbounded power into irretrievable disgrace, of Cardinal Wolsey, by the abrupt declaration of displeasure and dismission from the service of his King, made by that Monarch in the presence of Lord Surry and of the Lord Chamberlain; at the moment of Wolsey's humiliation and distress, Surry gives vent to his long suppressed resentments for the insolence and injuries which he had endured from the fallen favourite while in power, and breaks out into insulting and bitter reproaches, till checked by the Chamberlain who says

"Oh! my Lord;
"Press not a falling man too far: 'tis "Virtue".

The repetition of that single line in the relative position of the parties, struck me as a moral principle, and made upon my mind an impression which I have carried with me through all the changes of my life, and which I trust I shall carry with me to my grave.

(d.) The charge that I make against the present Executive administration is, that in all their proceedings relating to these unfortunate men, instead of that Justice, to which they were bound not less than this honourable Court itself to observe, they have substituted Sympathy! — Sympathy, with one of the parties in this conflict of Justice — and Antipathy to the other. Sympathy, with the white — Antipathy to the black — And in proof of this charge I adduce the admission and avowal of the Secretary of State himself — In the Letter of Mr Forsyth to the Spanish Minister d'Argaiz of 13. December 1839. [Document H.R. U.S. 185] defending the course of the Administration against the reproaches utterly groundless, but not the less bitter of the Spanish Envoy, he says:

" The undersigned cannot conclude this communication without calling the
" attention of the Chevalier de Argaiz to the fact that with the single exception of
" the vexatious detention to which Messrs. Montes and Ruiz have been subjected
" in consequence of the civil suit instituted against them, all the proceedings in
" the matter on the part of both the executive and judicial branches of the Go-
" vernment have had their foundation in the assumption that those persons
" alone were the parties aggrieved; and that their claim to the surrender of
" the property was founded in fact and in justice." [p. 29. 30.]

At the date of this Letter, this statement of Mr Forsyth was strictly true - All the proceedings of the Government, Executive and Judicial, in this case had been founded on the assumption, that the two Spanish Slave-dealers were the only parties aggrieved - that all the right was on their side, and all the wrong on the side of their surviving self emancipated victims - I ask your honours, Was this Justice? - No - It was not so considered by Mr Forsyth himself - It was Sympathy - and he so calls it - for in the preceding page of the same Letter referring to the proceedings of this Government from the very first intervention of Lieutenant Gedney, he says.

" Messrs Ruiz and Montes were first found near the coast of the United
" States, deprived of their property and of their freedom, suffering from lawless
" violence in their persons, and in imminent and constant danger of being deprived
" of their lives also. They were found in this distressing and perilous situation by
" Officers of the United States, who, moved towards them by sympathetic feeling
" which subsequently became as it were national, immediately rescued them
" from personal danger, restored them to freedom, secured their oppressors
" that they might abide the consequences of the acts of violence perpetrated
" upon them, and placed under the safeguard of the Laws all the property which
" they claimed as their own, to remain in safety until the competent authority
" could examine their title to it, and pronounce upon the question of ownership
" agreeably to the provisions of the 9th. article of the Treaty of 1795." ※ See us here

Now I enquire, by what right, all this Sympathy, from Lieutenant Gedney to the Secretary of State, and from the Secretary of State, as it were, to the Nation was extended to the two Spaniards from Cuba, exclusively, and utterly denied to the fifty two victims of their lawless violence? By what right was it denied to the men, who had restored themselves to freedom, and secured their oppressors to abide the consequences of the acts of violence perpetrated by them, and why was it extended to the perpetrators of those acts of violence themselves?

When the Amistad first came within the territorial jurisdiction of the United States, acts of violence had passed between the two parties, the Spaniards and the Africans on board of her but on which side those acts were lawful, on which side were the oppressors was a question of right and wrong. for the settlement of which if the Government and People of the United States, interfered at all, they were bound in duty to extend their sympathy to them all, and if they intervened at all between them, the duty incumbent upon their intervention, was not of favour, but of impartiality - not of sympathy, but of Justice dispensing to every individual his own right.

Thus the Secretary of State himself declares that the motive for all the proceedings of the Government of the United States, until that time had been governed by sympathetic feeling, towards one of the parties; and by the assumption, that all the right was on one side, and all the wrong on the other - It was the motive of Lieutenant Gedney - The same influence had prevailed even in the judicial proceedings until then - The very language of the Secretary of State, in this Letter breathes the same Spirit as animating the executive administration, and has continued to govern all its proceedings on this subject to the present day - It is but too true that the same Spirit of sympathy and antipathy has nearly pervaded the whole Nation, and it is against them that I am in duty bound to call upon this Court to restrain itself in the sacred name of Justice.

(e.) In the sequel to the diplomatic correspondence between the Secretary of State and the Spanish Minister Argaiz relating to the case of the Amistad, recently communicated by the President of the United States to the Senate [Doc. 179. - 12. Feb. 1841] the Minister refers with great apparent satisfaction to certain Resolutions of the Senate adopted at the instance of Mr. Calhoun, on the 15th of April 1840. - As follows

1. "Resolved, that a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is according to the Laws of Nations under the exclusive jurisdiction of the State to which her flag belongs, as much so as if constituting a part of its own domain.

2. "Resolved, That if such ship or vessel should be forced, by stress of weather, or
" other unavoidable cause into the port, and under the jurisdiction of a friendly power,
" she and her cargo, and persons on board, with their property, and all the rights
" belonging to their personal relations, as established by the Laws of the State to which
" they belong, would be placed under the protection which the laws of Nations extend
" to the unfortunate under such circumstances."

"Without entering into any discussion as to the correctness of these principles, let us admit them to be true to their fullest extent and what is their application to the case of the Amistad? If the first of the Resolutions declares a sound principle of National Law, neither Lieutenant Gedney nor Lieutenant Meade nor any Officer of the Brig Washington had the shadow of a right even to set foot on board of the Amistad. — According to the second Resolution, the Africans, in possession of the vessel were entitled to all the kindness and good offices due from a humane and Christian Nation to the unfortunate; and if the Spaniards were entitled to the same, it was by the territorial right and jurisdiction of the State of New York and of the Union, only to the extent of liberating their persons from imprisonment. Mr d'Argaiz therefore totally misapprehends the application of the principles asserted in these Resolutions of the Senate, as indeed Mr Forsyth appears by his answer to this Letter of the Chevalier to be fully aware. From the decisiveness with which on this solitary occasion he meets the pretension of the Spanish Envoy, a fair inference may be drawn that the Secretary himself perceived that the Senatorial Resolutions, instead of favouring the cause of Montes and Ruiz, have a bearing point blank against them.

The Africans &c —

(f.) ~~In all cases &c — to page 13 trial —~~
The Constitution of the United States &c ~~— to page 13. trial~~

[Insert — from quarto manuscript from the top of page 9 to the bottom of page 13.

(g.) Such was the disposal intended, deliberately intended, by a President of the United States to be made, of the lives and liberty of thirty six human beings! — The Attorney General of the United States, at once an Executive and a judicial Officer of the American People, bound in more than official duty to respect the right of personal liberty and the authority of the judiciary department had given a written opinion, that, at the instigation of a foreign Minister, the President of the United States should issue his order, directed to the Marshal to whose custody those persons had been committed, by order of the judge as prisoners and witnesses, and commanding that Marshal to wrest them from the hands of justice, and deliver them to such persons as should be designated by that same foreign minister to receive them — Will this court please to consider for one moment, the essential principle of that opinion? will this Court enquire, what, if that opinion had been successfully carried into execution, would have been the tenure by which every human being in this Union, man, woman, or child would have held the blessing of personal freedom? Would it not have been by the tenure of Executive Discretion, caprice or tyranny? — Had the precedent once been set and submitted to, of a nameless mass of judicial prisoners and witnesses, snatched by executive grasp from the protective guardianship of the Supreme judges of the land, (gubernativamente) at the dictate of a foreign minister, would it not have disabled forever the effective power of the Habeas Corpus? — Well was it for the Country — well was it for the President of the United States ~~Himself~~ himself that he paused before stepping over this Rubicon! — That he said — "We will proceed no further in this business" And yet he did not discard the purpose and yet he saw that this executive liberty trampling at once upon the judicial authority and upon personal ~~authority~~ would not suffice, either to satisfy the Spanish Minister or to satiate the public vengeance of the Barracoon Slave traders — Had the unfortunate Africans been torn away from the protection of the Court, and delivered up to the order of the Spanish Minister, he proposed not the means of shipping them off to the Island of Cuba — The indignation of the freemen of Connecticut might not tamely enchain the flight, of thirty six free persons, though Africans, fettered and manacled in their land of freedom to be transported beyond the seas

Sig 11, 12.81

seas, to perpetual hereditary servitude or to death, by the servile submission of an American President to the insolent dictation of a foreign Minister. There were judges of the State Courts in Connecticut, possessing the power of issuing the writ of Habeas Corpus, paramount even to the obsequiousness of a federal Marshal to an executive mandate. The opinion of the Attorney General comprehensive as it was for the annihilation of personal liberty, carried not with it the means of accomplishing its object. What then was to be done? To save the appearance of a violent and shameless outrage upon the authority of the judicial Courts, the moment was to be watched when the District Judge of the District Court should issue his decree, which it was anticipated would be conformable to the written opinion of the Attorney General. From that decree the Africans would be entitled to an appeal, first to the Circuit and eventually to the Supreme Court of the United States - but with suitable management, by one and the same operation, they might be chouced out of that right, the Circuit and Supreme Courts ousted of their jurisdiction, and the hapless captives of the Amistad delivered over to Slavery and to death.

For this purpose, at the suggestion of the District Attorney Holabird, and at the requisition of the dictatorial Spanish Minister, the Grampus, one of the smallest public vessels of the United States, a Schooner of burden utterly insufficient to receive and contain under the shelter of her main deck, 35 persons additional to the ship's company, was in the dead of winter, ordered to repair from the Navy Yard at Brooklyn to New Haven where the Africans were upon trial, with this secret order which I have read to the Court, signed Martin Van Buren, commanding the Marshal of the District of Connecticut to deliver over to Lieut. John T. Paine commander of the Grampus, and aid in conveying on board that Schooner, all the negroes, late of the Spanish Schooner Amistad, in his custody, under process [now] pending before the Circuit Court of the United States for the District of Connecticut.

Of this clear memorable order, this Court will please to observe that it is in form and phraseology, perfectly conformable to the written opinion which had been given by the Attorney General. It is not conditional, to be executed only in the event of a decision by the Court against the Africans, but positive and unqualified to deliver up all the Africans in his custody, under process now pending. There was nothing in the order itself to prevent Lieutenant Paine from delivering it to the Marshal, while the trial was pending; it carries out in form the whole idea of the Attorney General's opinion, that the President's order to the Marshal is

of

of itself all sufficient to supersede the whole protective authority of the judiciary— And with this pretension on the face of the order, is associated another of possible still more outrageous upon every security to personal liberty, in the direction to the Marshal to deliver over to Lieutenant Paine, all the Negroes, late of the Amistad, under his custody.

Is it possible that a President of the United States should be ignorant that the right of personal liberty is individual - That the right to it of every one, is his own— jus suum. and that no greater violation of his official Oath to protect and defend the Constitution of the United States, could be committed, than by an order to seize and deliver up, at a foreign minister's demand, thirty-six persons, in a mass under the general denomination of all, the negroes, late of the Amistad. That he was ignorant, profoundly ignorant of this self-evident truth, inextinguishable till yonder gilt framed Declarations of Independence, shall perish in the general conflagration of the great globe itself. I am constrained to believe— for to that ignorance, the only alternative to account for this order to the Marshal for the District of Connecticut, is wilful and corrupt perjury to his official presidential Oath—

But ignorant or regardless as the President of the United States might be of the self evident principles of human rights, he was bound to know that he could not lawfully direct the delivery up to a foreign minister, even of Slaves, of acknowledged undisputed Slaves, in an undefined unspecified number. — That the number must be defined, and the individuals specifically designated, had been expressly decreed by the Supreme Court of the United States in that very case of the Antelope, so often and as I shall demonstrate so erroneously quoted as a precedent for the captives of the Amistad.

" Whatever doubts (said in that case Chief Justice Marshall) may attend the question
" whether the Spanish claimants are entitled to restitution of all the Africans taken
" out of their possession with the Antelope we cannot doubt the propriety of demand-
" ing ample proof of the extent of that possession. Every legal principle, which re-
" quires the plaintiff to prove his claim in any case, applies with full force to this point:
" and no countervailing consideration exists. The onus probandi, as to the number
" of Africans which were on board, when the vessel was captured, unquestionably
" lies on the Spanish Libellants— Their proof is not satisfactory beyond 93. The indi-
" viduals who compose this number must be designated to the satisfaction of the Circuit
" Court." 10. Wheaton 120.

And this decision acquires double authority, as a precedent to establish the principles which it affirms, inasmuch as it was given upon appeal, and reversed the decision of the Circuit Court, which had resorted to the drawing of lots, both for the designation of the number and for the ~~specification~~ identification of individuals.

Lawless and Tyrannical; (may it please the Court — Truth, Justice and the Rights of humankind forbid me to qualify these epithets) Lawless and Tyrannical, as this order thus was upon its face, the cold blooded cruelty with which it was ~~issued~~ executed was altogether congenial to its Spirit — I have said that it was issued in the dead of winter and that the Crampus was of so small a burden as to be utterly unfit for the service upon which she was ordered — I now add that the gallant Officer who commanded her remonstrated, with feelings of indignation, controuled only by the respect officially due from him to his superiors against it — That he warned them of the impossibility of stowing this cargo of human flesh and blood beneath the deck of the vessel and that if they should be shipped, in that month of January on her deck, and the almost certain casualty of a storm should befall them on the passage to Cuba, they must all inevitably perish — He remonstrated in vain! He was answered only by the mockery of an instruction, to treat his prisoners with all possible tenderness and attention — If the whirlwind had swept them all into the Ocean, he at least would have been guiltless of their fate

But although the order of delivery was upon its face absolute and unconditional, it was made conditional, by instructions from the Secretary of State to the District Attorney — It was to be executed only in the event of the decision of the Court being favourable to the pretended application of the Spanish Minister, and Lieutenant Paine was to receive the negroes from the custody of the marshal as soon as their delivery should have been ordered by the court.

" Letting I dare not wait upon I would, a direct collision with the authority of the judicial tribunals was cautiously avoided; and a remarkable illustration of the thoughtless and inconsiderate character of the whole executive action in this case, appears in the fact, that with all the cunning and intricate stratagems to grab and ship off these poor wretches to Cuba, neither the President of the United States who signed nor the Secretary of State who transmitted the order knew, but both of them mistook the Court, before which the trial of the Africans was pending — They supposed it was the Circuit, when in fact it was the District Court

The Crampus arrived at New Haven three days before the decision of Judge

While the Amistad mutineers were imprisoned in Connecticut, abolitionists attempted to teach them English and Christianize them. This affidavit, dictated to an interpretor by "Singweh" [Cinqué], leader of the rebels, and Kimbo, indicate that they were Mende, an ethnic group from present day Sierra Leone.

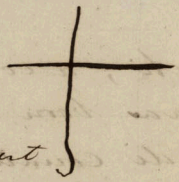
Returned to Lappan

Case 2

State of Connecticut
County of New Haven ss. New Haven Oct 7 1839

Singwek, a colored man, deposeth and saith, That he was born at Mani, a town in Jopoa in the Mendi country in Africa, and that his king Make Kallumbo resided at Kwommendi, the capital of Jopoa in said Mendi country; that he was sold by Birmajas son of Shaka, king of Gendumah in the Fai country to a Spaniard about 6 moons ago, that he was brought from Lomboka in a vessel with two masts, that he was landed at a village one day from Havanna, where he was kept 5 days, then taken to another village nearer to Havanna where he was kept 5 days more, that he was taken thence by night on foot through Havanna to the vessel which brought him from Havanna, that he was driven by force and put on board said vessel; that they sailed the next morning, that by night his hands were confined by irons, that on board said vessel he had not half enough to eat or drink only two potatoes and one plantain twice a day and half a tea cup of water morning and evening that he was beaten on the head by the cook in presence of Pipi, who claims to be his owner, and Master, and that he was told one morning

after breakfast that the white men would eat them when they landed.



The above named deponent subscribed this affidavit by making the annexed mark in my presence, and the said affidavit was taken by me the day, year and place first above written by the aid of James Covey who was sworn as Interpreter, and interpreted the questions put to said deponent and his answers thereto under oath, and said deponent declared that the said affidavit was true and that God knew it to be true, before me

Samuel J. Hitchcock
Judge of New Haven County Court

Affidavits of the
Captured Africans.

The Supreme Court opinion by Justice Joseph Story on the Amistad Case. January 1841

Supreme Court of the United States.—
January Term 1841.—

The United States— Appts.
42. vs
The Libellants & Claimants of the Schooner Amistad, her tackle apparel and furniture, together with her Cargo, and the Africans mentioned and described in the Several Libels and Claims.—

On Appeal from the Circuit Court of the United States for the District of Connecticut.—

Mr. Justice Story delivered the opinion of the Court.—

This is the case of an appeal from the decree of the Circuit Court of the District of Connecticut sitting in Admiralty. The leading facts as they appear upon the Transcript of the proceedings are as follows.

On the 27th of June, 1839, the Schooner L'Amistad, being the property of Spanish subjects, cleared out from the port of Havanna, in the Island of Cuba, for Puerto Principe in the same Islands. On board of the Schooner were the Captain Ramon Ferrer, and Jose Ruiz and Pedro Montez, all Spanish subjects. The former had with him a Negro boy named Antonio, claimed to be his slave. Jose Ruiz had with him forty nine Negroes, claimed by him as his slaves, and stated to be his property in certain pass or document signed by the Governor General of Cuba. Pedro

Montez had with him four other Negroes, also claimed by him as his slaves, and stated to be his property in a similar pass or document, also signed by the Governor General of Cuba. On the voyage and before the arrival of the Vessel at her port of destination, the negroes rose, killed the Captain and took possession of her. On the 26th of August, the Vessel was discovered by Lieut. Gedney, of the U.S. Brig Washington, at anchor on the high seas, at the distance of half a mile from the shore of Long Island. A part of the negroes were then on shore at Culloden Point, Long Island, who were seized by Lieut. Gedney and brought on board. The Vessel with the negroes and other persons on board, was brought by Lieut. Gedney into the District of Connecticut, and there libelled for salvage in the District Court of the United States. A Libel for salvage was also filed by Henry Green and Pelatiah Fordham of Sag Harbour Long Island. On the 18th of September Ruiz and Montez filed claims and libels, in which they asserted their ownership of the negroes as their slaves, and of certain parts of the cargo, and prayed that the same might be "delivered to them, or to the Representatives of her Catholic Majesty, as might be most proper." On the 19th of September, the Attorney of the United States for the district of Connecticut, filed an information or libel setting forth that the Spanish Minister had Officially presented to the proper department of the Government of the United States, a claim for the restoration of the

Vessel, cargo and slaves, as the property of Spanish subjects which had arrived within the jurisdictional limits of the United States, and were taken possession of by the said public armed Brig of the United States, under such circumstances as made it the duty of the United States to cause the same to be restored to the true proprietors, pursuant to the treaty between the United States and Spain; and praying the Court, on its being made legally to appear that the claim of the Spanish Minister was well founded, to make such order for the disposal of the Vessel, Cargo and Slaves, as would best enable the United States to comply with their treaty stipulations. But if it should appear that the Negroes were persons transported from Africa in violation of the laws of the United States, and brought within the United States contrary to the same laws, he then prayed the Court to make such order for their removal to the coast of Africa, pursuant to the Laws of the United States, as it should deem fit.

On the 19th of November, the Attorney of the United States filed a second information or libel similar to the first, with the exception of the second prayer above set forth in his former one. On the same day Antonio G. Vega the Vice Consul of Spain for the State of Connecticut, filed his libel, alleging that Antonio was a slave, the property of the representatives of Ramon Ferrer, and praying the Court to cause him to be delivered to the said Vice Consul, that he might be returned by him to his lawful owner in the Islands of Cuba.

On the 7th of January, 1840, the Negroes (Cinques and others) with the exception of Antonio, by their Counsel, filed an answer denying that they were Slaves, or the property of Ruiz and Montez; or that the Court could, under the Constitution or Laws of the United States, or under any treaty, exercise any jurisdiction over their persons by reason of the premises, and praying that they might be dismissed.

They specially set forth and insist in this answer that they were Native born Africans, born free and that of right ought to be free and not Slaves; that they were on or about the 15th of April, 1839, unlawfully kidnapped, and forcibly and wrongfully carried on board a certain Vessel on the Coast of Africa, which was unlawfully engaged in the Slaves Trade, and were unlawfully transported in the same Vessel to the Island of Cuba for the purpose of being there unlawfully sold as Slaves; that Ruiz and Montez well knowing the premises made a pretended purchase of them; that afterwards on or about the 28th of June 1839 Ruiz and Montez confederating with Ferrer (Captain of the Amistad) carried them without law or right to be placed on board of the Amistad to be transported to some place unknown to them, and there to be enslaved for life; that on the voyage they rose on the Master, and took possession of the Vessel, intending to return therewith to their native Country or to seek an Asylum in some free States, and the Vessel arrived about the 26th of August 1839 off Montaug Point near

Long Islands; a part of them were taken on shore, and were seized by Lieut. Gedney, and carried on board and all of them were afterwards brought by him into the District of Connecticut.

On the 7th of January 1840, Jose Antonio Tellineas and Mess^rs Aspe and Laca, all Spanish subjects residing in Cuba, filed their claims, as owners to certain portions of the goods found on board of the Schoone L, Amistad.

On the same day, all the libellants and claimants, by their Counsel, except Jose Ruiz and Pedro Montez, (whose libels and claims, as stated of record, respectively, were pursued by the Spanish Minister, the same being merged in his claims,) appeared, and the Negroes also appeared by their Counsel, and the case was heard on the libels, claims, answers, and testimony of witnesses.

On the 23^d of January, 1840, the District Court made a decree. By that decree the Court rejected the claim of Green and Fordham for salvage, but allowed salvage to Lieut. Gedney, and others, ~~of one third of the value thereof on~~ of one third of the value thereof of the Vessel and Cargo, but not on the Negroes Cinque and others: It allowed the claim of Tellineas and Aspe and Laca, with the exception of the above mentioned salvage: ~~It allowed the claim of the Spanish Vice Consul for Antonio, on behalf of Lopez's representatives.~~ It dismissed the libels and claims of Ruiz and Montez with costs, as being included under the claim of the Spanish Minister:

It allowed the claim of the Spanish Vice Consul for Autonio, on behalf of Ferrer's representatives; It rejected the claims of Ruiz and Montez for the delivery of the negroes, but admitted them for the cargo, with the exception of the above mentioned salvage; It rejected the claim made by the Attorney of the United States on behalf of the Spanish Minister for the restoration of the negroes under the treaty; but it decreed that they should be delivered to the President of the United States, to be transported to Africa, pursuant to the act of 3d of March, 1819.

From this decree the District Attorney on behalf of the United States appealed to the Circuit Court, except so far as related to the restitution of the Slave Antonio. The claimants Tellineas and Aspe and Laca also appealed from that part of the decree which awarded salvage on the property respectively claimed by them. No appeal was interposed by Ruiz or Montez, or on behalf of the Representatives of the owner of the Amistad. The Circuit Court by a mere pro forma decree affirmed the decree of the District Court reserving the question of salvage upon the claims of Tellineas and Aspe and Laca. And from that decree the present appeal has been brought to this Court.

The cause has been very elaborately argued as well upon the merits, as upon a motion on behalf of the Appellees to dismiss the appeal. On the part of the United States it has been contended (1). That due and sufficient proof concerning the property has been

made to authorise the restitution of the Vessel, cargo and Negroes to the Spanish subjects on whose behalf they are claimed pursuant to the Treaty with Spain of the 27th of October, 1795. (2) That the United States had a right to intervene in the manner, in which they have done to obtain a decree for the restitution of the property upon the application of the Spanish Minister - These propositions have been strenuously denied on the other side - Other collateral and incidental points have been stated, upon which it is not necessary at this moment to dwell -

Before entering upon the discussion of the main points involved in this interesting and important controversy, it may be necessary to say a few words as to the actual posture of the cause as it now stands before us - In the first place then, the only parties now before the Court, on one side are the U. States intervening for the sole purpose of procuring restitution of the property as Spanish property, pursuant to the Treaty upon the grounds stated by the other parties claiming the property in their respective libels - The U. States do not assert any property in themselves or any violation of their own rights or Sovereignty or laws, by the acts complained of - They do not insist that these Negroes have been imported into the U. States in contravention of our own Slave Trade Acts - They do not seek to have these Negroes delivered up for the purpose of being transported to Cuba as pirates or robbers, or as fugitives

criminals founds within our territories who have been guilty of offences against the laws of Spain - They do not assert that the seizure and bringing the Vessel and Cargo and Negroes into port by Lieut Gedney for the purpose of adjudication is a tortious act - They simply confine themselves to the right of the Spanish Claimants to the restitution of their property upon the facts asserted in their respective allegations -

In the next place the parties before the Court on the other side as appellees, are Lieut Gedney on his libel for salvage, and the Negroes (Cinques and others) asserting themselves in their answer not to be slaves but free native Africans, kidnapped in their own Country and illegally transported by force from that country, and now entitled to maintain their freedom -

No question has been here made as to the proprietary interest in the Vessel and Cargo - It is admitted that they belong to Spanish Subjects, and that they ought to be restored - The only point on this head is whether the restitution ought to be upon the payment of salvage or not - The main controversy is whether these Negroes are the property of Ruiz and Montez and ought to be delivered up; and to this accordingly we shall first direct our attention. It has been argued on behalf of the U. States, that the Court are bound to deliver them up according to the Treaty of 1795

with Spain, which has in this particular been continued in full force by the Treaty of 1819 ratified in 1821.— The sixth Article of that Treaty seems to have had principally in view cases where the property of the subjects of either State had been taken possession of within the territorial jurisdiction of the other during war— The eighth Article provides for cases where the Shipping of the Inhabitants of either States are forced through stress of weather, pursuit of pirates, or enemies, or any other urgent necessity to seek shelter in the ports of the other— There may well be some doubt entertained whether the present case in its actual circumstances falls within the purview of this Article— But it does not seem necessary for reasons hereafter stated absolutely to decide it— The ninth Article provides "That all "Ships and Merchandize of what nature soever, "which shall be rescued out of the hands of any "pirates or Robbers, on the high Seas, shall be brought "into some port of either States, and shall be deliver-"ed to the custody of the Officers of that port in order "to be taken care of and restored entire to the true propri-"etor, as soon as due and sufficient proof shall "be made concerning the property thereof"— This is the article on which the main reliance is placed on behalf of the United States for the restitution of these Negroes— To bring the case within the Article it is essential to establish. First. That these Negroes under all the circumstances fall within the de-

scriptions of merchandize in the sense of the Treaty. Secondly; That there has been a rescue of them on the high seas out of the hands of pirates and robbers, which in the present case can only be by shewing that they themselves are pirates and robbers; and Thirdly; That Ruiz and Montez the asserted proprietors are the true proprietors and have established their title by competent proofs. If these Negroes were at the time lawfully held as Slaves under the laws of Spain, and recognized by those laws as property capable of being lawfully bought and sold, we see no reason why they may not be justly deemed within the intent of the Treaty to be included under the denomination of merchandize and as such ought to be restored to the Claimants; for upon that point the laws of Spain would seem to furnish the proper rules of interpretation. But admitting this, it is clear in our opinion, that neither of the other essential facts and requisites has been established in proof; and the onus probandi of both lies upon the Claimants to give rise to the casus foederis. It is plain beyond controversy, if we examine the evidence that these negroes never were the lawful slaves of Ruiz or Montez or of any other Spanish Subjects. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba in violations of the Laws and Treaties of Spain, and the most solemn Edicts and Declarations ~~of that~~

of that Government. By those Laws and Treaties and Edicts the African Slave Trade is utterly abolished, the dealing in that Trade is deemed a heinous crime; and the Negroes thereby introduced into the Dominions of Spain are declared to be free. Ruiz and Montez are proved to have made the pretended purchase of these Negroes with a full knowledge of all the circumstances. And so cogent and irresistible is the evidence in this respect that the District Attorney has admitted in open Court upon the record that these Negroes were Native Africans and recently imported into Cuba, as alleged in their Answers to the Libels in the case. The supposed proprietary interest then of Ruiz and Montez is completely displaced, if we are at liberty to look at the evidence or the admissions of the District Attorney. If then these Negroes are not Slaves, but are kidnapped Africans, who by the Laws of Spain itself are entitled to their freedom, and were kidnapped and illegally carried to Cuba, and illegally detained and restrained on board of the Amistad, there is no pretence to say that they are pirates or robbers. We may lament the dreadful acts by which they asserted their liberty, and took possession of the Amistad, and endeavoured to regain their native country; but they cannot be deemed pirates or robbers in the sense of the Law of Nations, or the Treaty with Spain, or the Laws of Spain itself, at least

so far as those laws have been brought to our knowledge. Nor do the Libels of Ruiz and Montez assert them to be such.

This posture of the facts would seem of itself to put an end to the whole Enquiry upon the merits. But it is argued on behalf of the United States, that the Ship and Cargo and Negroes were duly documented as belonging to Spanish Subjects, and this Court have no right to look behind these documents; that full faith and credit is to be given to them; and that they are to be held conclusive evidence in this cause even although it should be established by the most satisfactory proofs, that they have been obtained by the grossest frauds and impositions upon the constituted Authorities of Spain. To this argument we can in no wise assent. There is nothing in the Treaty which justifies or sustains the Argument. We do not here meddle with the point, whether there has been any connivance in this illegal Traffic on the part of any of the Colonial Authorities or Subordinate Officers of Cuba, because in our view such an examination is unnecessary and ought not to be pursued unless it were indispensable to public justice. although it has been strongly pressed at the Bar. What we proceed upon is this, that although public documents of the Government accompanying property found on board of the private Ships of

a foreign nation certainly are to be deemed prima facie evidence of the facts which they purport to state; yet they are always open to be impugned for frauds; and whether that fraud be in the original obtaining of these documents or in the subsequent fraudulent and illegal use of them, when once it is satisfactorily established, it overthrows all their sanctity and destroys them as proofs. Frauds will vitiate any even the most solemn transactions, and an asserted titles to property, founded upon it, is utterly void. The very language of the ninth article of the Treaty of 1795 requires the proprietor * to make due and sufficient proof of his property. And how can that proof be deemed either due or sufficient which is knit a connected and stained tissue of fraud? This is not a mere rule of Municipal jurisprudence. Nothing is more clear in the Law of Nations as an established rule to regulate their rights and duties and intercourse, than the doctrine that the Ship's papers are knit prima facie evidence, and that if they are shewn to be fraudulent they are not to be held proof of any valid title. This Rule is familiarly applied and indeed is of every day occurrence in cases of prize in the contests between belligerents and Neutrals, as is apparent from numerous cases to be found in the reports of this Court, and it is just as applicable to the transactions of civil intercourse between Nations in times of

peace. If a private ship clothed with Spanish papers should enter the ports of the United States claiming the privileges and immunities and rights belonging to bona fide subjects of Spain under our Treaties or laws, and she should in reality belong to the subjects of another nation, which was not entitled to any such privileges immunities or rights, and the proprietors were seeking by frauds to cover their own illegal acts under the flag of Spain, there can be no doubt, that it would be the duty of our Courts to strip off the disguise, and to look at the case according to its naked realities. In the solemn Treaties between Nations it can never be presumed that either State intends to provide the means of perpetrating or protecting frauds; but all the provisions are to be construed as intended to be applied to bona fide transactions. The 17th Article of the Treaty with Spain, which provides for certain passports and certificates as evidence of property on board of the Ships of both States is in its terms applicable only to cases where either of the parties is engaged in a War. This Article required a certain form of passport to be agreed upon by the parties and annexed to the Treaty. It never was annexed; and therefore in the case of the Amiable Isabella (6 Wheat. R. I.) it was held inoperative.

It is also a most important consideration in the present case, which ought not to be lost sight of, that supposing these African Negroes not to be slaves, but kidnapped, and free Negroes, the Treaty with Spain

cannot be obligatory upon them, and the United States are bound to respect their rights as much as those of Spanish subjects. The conflict of rights between the parties under such circumstances becomes positive and inevitable, and must be decided upon the eternal principles of justice and international law. If the contest were about any goods on board of this ship, to which American citizens asserted ~~any~~ title, which was denied by the Spanish claimants, there could be no doubt of the right of such American citizens to litigate their claims before any competent American Tribunals notwithstanding the Treaty with Spain. A fortiori the doctrine must apply where human life and human liberty are in issue, and constitute the very essence of the controversy. The Treaty with Spain never could have intended to take away the equal rights of all foreigners, who should contest their claims before any of our Courts, to equal justice, or to deprive such foreigners of the protection given them by other Treaties, or by the general Law of Nations. Upon the merits of the case then, there does not seem to us to be any ground for doubt, that these ~~African~~ Negroes ought to be deemed free, and that the Spanish Treaty interposes no obstacles to the just assertion of their rights.

There is another consideration growing out of this part of the case, which necessarily arises in judgment. It is observable that the United States in their original claim filed as it in the alternative to have the Negroes if Slaves and Spanish property restored to the proprietors, or if not Slaves but Negroes who had been transported from

Africa in violation of the Laws of the United States and brought into the U. States contrary to the same laws, then the Court to pass an order to enable the U. States to remove such persons to the Coast of Africa to be delivered there to such Agent, as may be authorised to receive and provide for them. — At a subsequent period this last alternative claim was not insisted on, and another claim was interposed omitting it, from which the conclusion naturally arises that it was abandoned. The decree of the District Court however, contained an order for the delivery of the Negroes to the U. States, to be transported to the Coast of Africa under the Act of the 3d of March 1819. ch. 224. The United States do not now insist upon any affirmance of this part of the Decree; and in our judgment upon the admitted facts there is no ground to assert, that the case comes within the purview of the Act of 1819, or of any other of our prohibitory Slave Trade acts. These Negroes were never taken from Africa or brought to the United States in contravention of those Acts. When the Amistad arrived she was in possession of the Negroes, asserting their freedom, and in no sense could they possibly intend to import themselves here, as slaves, or for sale as slaves. In this view of the matter that part of the decree of the District Court is unmaintainable and must be reversed.

The view, which has been thus taken of this case upon the merits under the first point renders it wholly unnecessary for us to give any opinion upon the other

point, as to the right of the U. States to intervene in this case in the manner already stated. We dismiss this, therefore, as well as several minor points made at the Argument.

As to the claims of Lieut Gedney for the salvage service it is understood that the United States do not now desire to interpose any obstacle to the allowance of it if it is deemed reasonable by the Court. It was a highly meritorious and useful service to the proprietors of the Ship and Cargo; and such as by the general principles of Maritime law is always deemed a just foundation for salvage. The rate allowed by the Court does not seem to us to have been beyond the exercise of a sound discretion under the very peculiar and embarrassing circumstances of the case.

Upon the whole our Opinion is that the Decree of the Circuit Court affirming that of the District Court ought to be affirmed except so far as it directed the Negroes to be delivered to the President to be transported to Africa in pursuance of the Act of the 3d of March 1819, and as to this it ought to be reversed, and that the said Negroes be declared to be free and be dismissed from the custody of the Court and go without day.

A True Copy

Test Wm. H. Carroll

C. C. C. U. S.

Affidavit of Kimbo, an Amistad African, 1839.

to be returned to L Taffan 2

State of Connecticut
County of New Haven ss. New Haven, Oct 7, 1839

Kinbo, a colored man, deposith and saith That he was born at Mankobah, a town of Sauh-umah, in the Mendi country in Africa, that he was sold to a Spaniard at Lomboko more than six months ago, that he was brought from Lomboko to Havanna more than six months ago, that he was landed by night at a small village near Havanna where he was kept five nights, thence removed to another village where he was kept five nights more, that he was then carried by force on board the vessel in which he came to this country; that on board the vessel he had half enough to eat and drink, two potatoes and one plantain twice a day, half a tea cup of water morning and evening; that asking for more water he was driven back with a whip, that the Spaniards washed their own clothes in fresh water, that for stealing some water he received a severe beating, that he was held down over a piece of timber, and beaten with twenty three lashes on the back, that this was done by Pipi, who bought him (his master) the cook, Antonio, and another unitting; that this flogging was repeated morning and evening two days, that powder and rum were applied to his wounds, that Pipi told the

OOO

sailors to do this, that Pepi struck him four times, and that the marks are still visible; and that Gabri, Forni, and Bunch were beaten in like manner.

The above named deponent [X] subscribed this affidavit by making the annexed mark in my presence, and the said affidavit was taken by me the day, year and place first above written by the aid of James Covey who was sworn as Interpreter and interpreted the questions put to said deponent, and his answers thereto under oath, and said deponent declared that the said affidavit was true and that God knew it to be true, before me,

Samuel J. Hitchcock
Judge of New Haven County Court.

Congressional Globe, House of Representatives, 33rd Congress, 1st Session, Pages 52 through 55, Amistad Claim--Mr. Giddings December 21, 1853

her feet are planted on the millions she has doomed to the horrors and agonies and pollutions of slavery, holds, nevertheless, in one hand, that precious, Heaven-sent volume, which declares, that God "hath made of one blood all nations of men, to dwell on all the face of the earth;" and in the other, that emphatically American paper, which declares that "all men are created equal!" And how greatly is the guilt of this nation, in her matchless oppressions, aggravated by the fact, that she owes infinitely more than ever did any other nation to Christianity and liberty and knowledge; and that she is, therefore, under infinitely greater obligation than was ever any other nation to set an example, blessed in all its influences, both at home and abroad! Other nations began their existence in unfavorable circumstances. They laid their foundations in despotism, and ignorance, and superstition. But Christianity, and liberty, and knowledge, waited upon the birth of this nation, and breathed into it the breath of life.

My hour is nearly up, and I will bring my remarks to a close. After all, the Administration has done us good service, in attempting to qualify the Divine command, to do unto others as we would have others do unto us; for, in attempting to do this for the sake of saving slavery, it has, by irresistible implication, admitted that the command itself requires us to "let the oppressed go free."

This precious law of God contains, as they are wont to insist, ample authority for all the demands of the Abolitionists—that despised class of men to which I am always ready to declare that I belong. Hence, the Administration, in quoting this law as the great rule of conduct between men, has, in no unimportant sense, joined the Abolitionists. I say it has quoted this law—this naked law. I say so, not because I forget the words with which it attempted to qualify the law, but because, inasmuch as the law, which God has made absolute, man cannot qualify, these qualifying words fall to the ground, and leave the naked law in all its force. I admit that the Administration did not quote this law for the sake of manifesting its union with the Abolitionists; for, yet a while at least, it expects more advantage from its actual union with the slaveholders than it could expect from any possible union with the Abolitionists. No; the Administration quoted this law for the sake of serving a purpose against Austria; and it flattered itself that, by means of a few qualifying words, it could shelter slavery from the force of the quotation. But in this it fell into a great mistake. Its greater mistake, however, was in presuming to quote the Bible at all. The Administration should have been aware, that the Bible is a holy weapon, and is therefore fitted to anti-slavery, instead of pro-slavery, hands. It should have been aware, that it is more dangerous for pro-slavery men to undertake to wield this weapon, than it is for children to play with edge tools. The Bible can never be used in behalf of a bad cause, without detriment to such cause.

I conclude, Mr. Chairman, by expressing the hope, that this egregious blunder of the Administration, in calling the Bible to its help—a blunder, by the way, both as ludicrous and wicked as it is egregious—will, now that the blunder is exposed, be not without its good effect in the way of admonition. I trust, that this pro-slavery Administration, and, indeed, all pro-slavery parties and pro-slavery persons, will be effectually admonished by this blunder to let the Bible entirely alone, until they shall have some better cause than slavery to serve by it.

* Rogers's Italy.

AMISTAD CLAIM.

SPEECH OF HON. J. R. GIDDINGS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

December 21, 1853,

In the Committee of the Whole on the state of the Union, on the reference of the President's Message to the appropriate committees.

Mr. GIDDINGS said:

Mr. CHAIRMAN: I rise to call the attention of this body and of the country to that portion of the President's message which recommends to our favorable consideration the claims of certain Cuban slave dealers. They profess to have owned the people on board the schooner Amistad, who, by their own valor, regained their freedom in 1839. The President desires that we shall make the necessary appropriation to pay the slave merchants for the loss of their contemplated profits.

Mr. BAYLY, of Virginia. The gentleman is correct, and the Committee on Foreign Affairs will report a bill for that purpose.

Mr. GIDDINGS, (resuming.) I thank the gentleman for this open avowal of the intentions of his committee. We may always look to slaveholders for a frank declaration of sentiments and intentions. It is only the doughfaces of the North who hide behind false issues, and keep out of sight until kicked into view. [Laughter.]

The proposition of the President is important. It involves the observance of our most solemn treaty stipulations, which bind us to exert our influence to abolish the slave trade rather than to uphold and encourage it; it involves our national honor, and the welfare of our race.

Sir, as early as 1817 Spain took upon herself the most solemn obligations to abolish this slave trade. This obligation was contained in her treaty with Great Britain of that year.

In perfect good faith, the Crown of Spain, by its decretal order, issued soon after, declared the slave trade abolished throughout her dominions, including her colonial possessions; and asserted the freedom of all Africans who should be thereafter imported into any of her national or colonial ports. Our own Government had, from its commencement, expressed its abhorrence of that traffic. Soon after the adoption of our Constitution, Congress passed laws, so far as authorized, to modify its character, and, as soon as permitted by the Constitution, they prohibited it under severe penalties. Indeed, we have declared it *piracy*, and hang the Americans engaged in it, as unfit for human association.

By the tenth article of our treaty at Ghent, we declared the slave trade to be "irreconcilable with the principles of humanity;" and we stipulated with Great Britain to exert our influence and power to eradicate from the earth this "execrable commerce in human flesh;" and we now sustain a maritime force on the African coast, at an annual expense of from two to three millions of dollars, with the avowed intention to destroy forever this nefarious traffic. France, too, has long exerted her influence to attain this humane object; and the civilized nations of the earth stand pledged to the purification of our race from a traffic so abhorrent to every feeling of our nature.

While those four great Powers which I have mentioned were thus solemnly committed to this policy—while the Christian world held this slave trade in unutterable abhorrence—certain Cuban slave dealers continued to violate the laws and treaties of their own Government, the rights of human nature, and the laws of God, by importing and enslaving the unoffending people of Africa.

In 1839 they imported a cargo of these inoffensive victims to Havana, in the Island of Cuba. According to the proof exhibited before the Judicial Department of Government, they were seized in Africa about the middle of April, by force carried on board the slave ship, and on the 12th June of that year they were landed in Havana, and imprisoned in the barracoons of that city.

On the 22d of that month, Don Pedro Montez obtained a license, or permit, from the Governor General to transport three "ladinoes," or *legal slaves*, from Havana to Principe, on the south side of the island; and on the 27th of the same month José Ruiz obtained a similar permit to transport forty-nine "ladinoes," or *legal slaves*, to the same port. These permits were obtained, at all times, by paying the accustomary fee to the revenue. They were in themselves legal, giving liberty to transport only *slaves;* and the fraud consisted in transporting Africans who were free under the permits to transport slaves. The permits were conclusive evidence of the payment of the duty, as between the Government on the one side and Montez and Ruiz on the other. But these Africans were in no way parties to these permits, knew nothing of their being granted; and I need say *their* rights could not be affected in any way by them. Every member will at once see they were in no respect admissible evidence against the negroes, who had been imported in fraud, and in violation of Spanish treaties and Spanish laws.

I mention these facts at this time for the reason that, in all the litigation of this claim before the courts, all the attorneys and agents who have advocated it rely solely upon these permits, not to show that the duties were actually paid, but to show that Montez and Ruiz, at a subsequent day, shipped "ladinoes," or *legal slaves*, under the authority of those permits. The attempt is to make these permits testimony of the subsequent conduct of Montez and Ruiz. And I apprehend the chairman of the Committee on Foreign Affairs [Mr. BAYLY] will be compelled to rely upon these permits, instead of showing us proof of the fact that these people had been actually held in Cuba as legal slaves. I bespeak his attention to this point. If they had been long resident in Cuba, I trust he will give us the proof. Let us have the depositions of those who owned them; for, if they had been owned there, some one must have owned them, and we want his evidence, or that of some person who knows the fact.

Now, I trust the gentleman will not follow the example of his predecessor, who gave us the certificate of some individual unknown to us, who states that Montez and Ruiz were *honorable* men. I look upon such evasions as no compliment to the common sense of this body, or to that of the people, whose money they seek to apply in payment of this claim.

Montez and Ruiz are shown to have purchased these people with the full knowledge that they were Africans, newly imported, and, of course, free by the laws of Spain. Indeed, they could not be ignorant of that fact. These miserable victims, at the time Montez and Ruiz purchased them, could not utter a word of the Spanish language; their dialect, manner, and appearance, showed them to have recently come from the African coast. Such evidence no Cuban could misunderstand.

But to proceed with the statement of facts:

On the 28th of June, just sixteen days after they had been imprisoned in the barracoons at Havana, they were taken therefrom and shipped on board the Amistad, which sailed for Principe on the same day, with a crew composed of the captain, two sailors, and a cook. Montez and Ruiz were also on board.

On the 1st day of July, while sailing along the eastern coast of the Island, the Africans rose and claimed their freedom. The captain and cook attempted to reduce them to subjection, and were slain; Montez and Ruiz, and the two sailors, surrendered the ship to the Africans. They immediately sent the sailors on shore in the boat, and retaining Montez and Ruiz on board, directed them to steer the ship for Africa. But, during the darkness of the night, they directed their course northwardly, and on the 26th of August, being sixty days from the time of leaving Havana, they came to anchor off the Connecticut coast, near the eastern shore of Long Island.

While the vessel was thus riding at anchor, Lieutenant Gedney, of the ship Washington, engaged in the coast survey of the United States, took possession of her, and of the cargo and people on board, and carried them into the port of New London.

Dates at this point will be found material, before I close my remarks; and I ask the attention of the committee particularly to the fact that, on the 29th of August, 1839—being precisely two months and one day from the time of leaving the port of Havana—Montez and Ruiz filed their claim in the district court of the United States, demanding these Africans as their slaves.

On the 19th September, 1839, the Africans filed their answers to claim of Montez and Ruiz, setting forth the facts as I have related them, and denying that they were, or ever had been, slaves to Montez and Ruiz, or to any other person; but that they were, and ever had been, free.

Here I will remark that the Africans were strangers in a strange land, ignorant of any language save their native dialect—without friends, without influence, and without money. One would have reasonably supposed that the sympa-

thies of all men and all Government officers would have been enlisted in favor of these persecuted exiles, who had been thus torn from their homes, their country, their kindred and friends. The dictates of our nature are in favor of the oppressed, the friendless, of those who are incapable of defending their own rights.

Yet I feel humbled, as an American, when I say that the President sent orders to the United States Attorney for the district of Connecticut, directing him to appear before the court, and in the name of the Spanish Minister to demand these Africans, in order that they may be delivered over to their pretended owners.

This order was complied with; proofs were taken; the case was prepared by able counsel, who appeared for the slave dealers, and fully argued it before the district court. A ship was sent into the vicinity, where the court was sitting, with directions that if a decree were pronounced against the Africans, they should be hurried on board and sent to Cuba, to be garroted and gibbeted, without waiting for them to appeal to a higher court.

I mention this fact as illustrative of the manner in which the Executive influence was wielded against these down-trodden strangers. It is due to those who come after us, that these truths be placed upon the record of our debates, in order that posterity may understand the views and feelings which guide statesmen of the present age.

But, thanks to that Providence which gave us a Government of laws, instead of the will of a despot, to control the fate of freemen, the court, after the most patient hearing and consideration of the case, found the Africans to have been imported in violation of the treaties and laws of Spain—that they were *freemen*, and not slaves to Montez and Ruiz, or to any other person—and ordered them to be set at liberty.

We should have supposed that this solemn decision of an authorized tribunal would have satisfied the Executive; but an appeal was taken to the circuit court. The decree of the district court, however, was reaffirmed in the circuit court, and an appeal was taken to the Supreme Court of the United States. Here, sir, in this Capitol, the case was again argued, before the highest judicial tribunal of the nation. The Attorney General appeared on behalf of the slave-dealing pirates, and all the influence of his reputation, his official character, and of the Executive, was again wielded in favor of this Spanish slave trade. The whole case was again argued and considered, and the decree of the district court was again affirmed. But I can do no better here than to quote the words of the court, who, in making the decision, said:

"It is plain beyond controversy, if we examine the evidence, that these negroes never were the lawful slaves of Ruiz or Montez, or of any other Spanish subjects. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that Government. By these laws, and treaties, and edicts, the African slave trade is utterly abolished; the dealing in that trade is deemed a heinous crime; and the negroes thereby introduced into the dominions of Spain are declared to be free. Ruiz and Montez are proved to have made the pretended purchase of these negroes, with a full knowledge of all the circumstances. And so cogent and irresistible is the evidence in this respect, that the district attorney has admitted in open court, upon the record, that these negroes were native Africans, and recently imported into Cuba, as alleged in their answers to the libels in the case."

Now, sir, I ask the gentleman from Virginia, [Mr. BAYLY,] when he reports his bill, to reverse this decision, to show that these judges, learned in the law, did not understand the case; that they were ignorant of their duties; that they did not comprehend the testimony.

When, sir, he attempts to reverse this solemn decision, I trust he will show the error on which he relies. If he denies that these Africans were *freemen*—that the court were deceived on this point—I desire him to show the fact. I hope he will make it plain to our comprehension.

If he denies this fact, I trust he will also show that the district attorney, who admitted them to have been recently imported, and therefore *free*, and *not slaves*, misunderstood the facts—did not comprehend the proofs—was ignorant of his duties. I trust he will make these things plain, before he asks us to vote for his bill.

But, sir, I call the attention of this body to the fact that the Executive of the United States selected the judicial branch of Government to decide this claim. Under his directions, it was prosecuted before all our principal courts; commencing with the district, and rising to the Supreme Court. These tribunals spent much time in the examination, and each and all of them have pronounced it groundless, destitute of merit, and unworthy of our attention.

And now, Mr. Chairman, the President, who has never distinguished himself as a jurist, to my knowledge, undertakes to assure us that it is a meritorious claim, notwithstanding all these decisions of a coördinate branch of Government. He says, in distinct language, that "*this claim is believed to rest on the obligations imposed by our existing treaties with that Government,*" while these courts say, in equally emphatic language, that *there is no treaty* which imposes such obligations upon us.

Here, sir, is an issue between the executive and the judicial department of Government, and the President appeals to the legislative branch to sustain him. I do not think the history of the country furnishes a precedent for this state of things. The President takes the part of the slave dealers, the court stands by the Constitution, by the laws, and by the rights of humanity.

But, sir, the President insists that we shall investigate the case, and pronounce our judgments in regard to its merits. That has been done. It is now some six years since this claim was presented to the consideration of this body. The usual bill making appropriations for the civil and diplomatic expenses of Government, passed this House, and was sent to the Senate. That body amended it by inserting an appropriation of $50,000 to indemnify these slave dealers. It came back to this Hall, thus amended, for our concurrence.

My venerable and ever-lamented friend, John Quincy Adams, was then just lingering upon the confines of life; he was pale and trembling under the weight of nearly fourscore years; his voice was so weak that he was able to make himself heard at the distance of only a few yards; he had ceased to mingle in the debates of this Hall; he had, however, been familiar with all the details of this pretended claim, and when he saw his country about to be disgraced by contributing the public funds to the payment of these Spanish slave dealers, for the failure of their anticipated speculations in human flesh, his spirit was stirred within him, and he once more, and for the last time, rose in defense of his country's honor, in defense of humanity. Members from the distant parts of the Hall left their seats and gathered around him, in order to catch the last words of the venerable statesman. The reporters, unable to hear him, rushed into the seats of members, and crowded near, to give to the country as much as possible of the last speech of the greatest man then living. He spoke briefly, but continued his remarks until his physical system appeared to sink under the effort.

The vote was taken, and I think there were not five voices heard in favor of the amendment. Members appeared astonished that such a claim should have been presented to an enlightened people. But the President says it has never been *finally* acted upon. Well, sir, I know of no way in which it can be *finally* acted upon, until the *final* day of all things shall come. Yet, I apprehend, the President was not aware that it had been rejected by this body, and that, too, by a vote which should forever have set the matter at rest. This appeal of the President from that decision to the judgment of the present House of Representatives, is of itself disrespectful to the Legislature of the nation. I protest against it. His predecessor was dissatisfied with the decision of the judiciary, and appealed to Congress. The appeal was heard in this Hall, and dismissed by an almost unanimous vote; and now the President desires us to reverse that decision of our own body. Are the members of the present House of Representatives more competent than those who then occupied their seats? Are we more intelligent, more honest, more patriotic, or more familiar with the facts, than they were?

The President appears not to have possessed the proper degree of information on this subject. I do not believe that he or his Cabinet can have examined it with that care or attention which the courts bestowed upon it. I say this for the reason that he states in his message, that "this claim is believed to rest on the obligations imposed by *our existing treaty* with Spain." In what treaty? In what article of any treaty? The report of a former committee of this House insisted that the 8th, 9th, or 10th articles of our treaty with Spain, of 1795, imposed upon us that duty. The committee did not know in *which* article, nor in which *clause* of either article, such obligation could be found. The Supreme Court, however, as I have already remarked, looked very carefully through that treaty, and all other treaties between Spain and the United States, and, upon solemn consideration, declared that no such duty existed under that or any other treaty, That court, sir, was composed of nine able judges, learned in the law; they had listened to the most eminent counsel of the United States, and, after full deliberation, were clearly of opinion that no such obligation existed under any treaty. And, sir, I have more confidence in the opinion of those judges, in relation to our treaty stipulations, than I have in the opinion of the President.

Well, sir, the President insists that we are bound by treaty to pay for the bodies of these Africans; and I wish to say to the chairman of the Committee on Foreign Affairs, that when he draws up his report, I hope he will inform us of the article, the section and clause in which he finds such obligation? I hope the gentleman will be specific on this point.

Mr. BAYLY. I shall be very likely to do that.

Mr. GIDDINGS. I take the gentleman at his word, and will hold him to his promise.

The ninth article of our treaty of 1795 stipulates that, "when a ship and merchandise of either nation shall be rescued out of the hands of pirates or robbers, it shall be delivered over to the owner, on sufficient proof." Now, the court said, n order to bring the law within that article, it must be shown that the negroes were "*merchandise*," and had been rescued out of the hands of pirates or robbers; neither of which could be true; for it had been clearly proved, and was admitted by the attorney for the United States upon the record, that the negroes were Africans recently imported, and, therefore, *freemen*, and not slaves; and, even in slaveholding language, could not be regarded as *merchandise*.

Secondly, that being freemen, and not slaves, they had a perfect right, by the laws of Nature and of Nature's God, to their liberty. Yet, in opposition to these plain dictates of our judgment, and in defiance of that branch of Government which, by the Constitution, is authorized to give construction to our treaty stipulations, the President insists that we are obligated to pay these slave dealers for the blood, and bones, and sinews of those freemen.

I, sir, as an humble member of this body and a Representative of the people, protest against this disrespect which the President manifests towards that coördinate branch of Government. It is more than disrespectful for him thus publicly, in his message, before the world, to deny the accuracy of that decision of the Supreme Court, and to call on us to reverse it. Nor does it become members of this body to sit in silence when the Executive thus attempts to overthrow the official action of the judiciary. It is surely becoming each branch of Government to keep within its constitutional sphere.

It would be as excusable in us to withold appropriations to pay officers of the President's appointment, whom we deem unworthy, and thus control the Executive action by compelling him to make such appointments as we approve, as it would be to interfere with the solemn decisions of the Supreme Court. It would be as proper for us, by our votes here, to express our contempt for any act of the Executive within his exclusive jurisdiction, as it is for the President to treat a decision of the judicial branch of Government with disrespect.

Sir, the President has his constitutional sphere of duties; while he confines himself to that sphere, we are bound to respect his acts. The judiciary has also its constitutional sphere of action, and is to be respected while acting therein. I will not consent to interfere with either; nor will I consent that either shall interfere with our duties; and

when the President asks us to reverse the decisions of the Supreme Court, I will repudiate his suggestion.

We are compelled to take this position. If the decision of the court be correct, we shall violate the Constitution by complying with his recommendation to pay those slave dealers for the loss of their anticipated speculations in human flesh. We can, therefore, only comply with the President's recommendation by pronouncing the decision of the judiciary *erroneous;* that the judges are incompetent to the duties imposed upon them; and by saying to the world that we will correct the errors of that branch of Government, the Constitution to the contrary notwithstanding.

But, in order to induce us to grant this appropriation, the President informs us that "its justice was admitted in our diplomatic correspondence with the Spanish Government, as early as 1847." And does the President suppose us sent here to carry out the views of a Secretary of State? Was such Secretary authorized to speak for us?—to commit the nation to the payment of these Spanish pirates, for the blood and bones of freemen whom they were unable to enslave.

Mr. Chairman, I am frank to say that I am dissatisfied with this suggestion of the President. In 1840 and 1841 this claim passed through all the various courts, and was fully heard, considered, and passed upon, and by them declared to be unfounded and unjust. In 1847 a Secretary of State, endeavoring to subvert the power and influence of the judiciary, in his official correspondence with a foreign Power, admits this claim to be just, which the Supreme Court had solemnly decided *unjust;* thereby apparently bringing contempt upon the judiciary for maintaining what they regarded as the law of nations, the Constitution of our country, and the rights of humanity. And that disreputable act of the Secretary of State is quoted as an authority to guide the independent Representatives of this body in the discharge of their duties. Sir, with my whole soul I repudiate the proposition. Why, sir, does the President believe the Secretary of State in 1847 really constituted the brains of this House? Was he authorized to think for us? I have thousands of constituents who are not beneath that Secretary of State in their estimate of moral and political duty; and I hesitate not in saying that not one of them, of any party, would advise me to sustain this claim. Nay, sir, they would condemn me for such a vote. I am responsible to them, and not to a politically repudiated Secretary of State, for my vote. Those constituents are the depositaries of power. They have a right to demand that I shall carry out their views; but that Secretary of State has no right even to ask an explanation of any vote which I may give.

Again, the President says that this claim has been reported upon favorably by committees in both Houses of Congress. Well, sir, we are not sworn to act in accordance with the report of committees. I have shown the action of this whole body, repudiating this claim by an almost unanimous vote. This the President did not see fit to bring to our view, but he has quoted the report of a committee as an authority to guide us, while he would seem unwilling that the action of the entire body, upon full discussion, should have any influence upon our minds.

But I am willing to look into those reports to which he refers. That of the Senate, I believe, was verbal—merely recommending the payment of $50,000 to these slave dealers. Senators were too cautious to assign any reasons for such recommendation. They probably recollected the advice of Lord Mansfield to a provincial judge, to state what his judgment was on each case, but *never to assign any reason for it.*

It is sometimes unpleasant to subject one's reasons to the scrutiny of opponents; and as the Senate avowed no reason for their opinion, we are bound to suppose they had none to assign which was satisfactory to themselves. But the Committee on Foreign Affairs of this House were less cautious in their action, and imprudently, as I think, put their views on paper. On that the President relies with much confidence, and I will therefore ask attention to it.

Having weighed the remarks which I intend to make upon that report, I ask the attention of the Representatives from the State of Pennsylvania; and if I do injustice to the author of that report, who was a member from that State, it will be their duty to correct me, and to vindicate him.

Sir, on the first page of that report I find a gross misrepresentation, a flagrant falsehood—one that is important in considering the case. It sets forth that these negroes and the schooner Amistad was taken possession of by Lieutenant Gedney, on the 26th of August, A. D. 1840, when the record of the district court of the State of Connecticut, and every newspaper then published in that part of the country, the history of the times, and our own recollection, shows that event to have occurred on the 26th of August, A. D. 1839, instead of 1840.

On page thirteen the report admits that they were landed at Havana on the 12th June, 1839, as the court decided, and then asserts that "they must have been *fourteen months in Cuba.*"

The apparent intention of making the false statement that they were taken possession of in 1840 was to lay the foundation of this false conclusion, that these negroes had been in Cuba *fourteen months* instead of *sixteen days*, as the testimony shows. Were this assertion true, it would show that the negroes had not been imported so recently as the court supposed, and would have led to the conclusion that the judges may have mistaken the proofs on other points. But, to effect this object, it was necessary to start off with a palpable falsehood. Why, sir, as heretofore stated, the claim of Montez and Ruiz was filed in the district court of Connecticut on the 29th August, 1839, being only *two months and seventeen days* from the time the negroes were first landed in Cuba; while the report asserts that they were fourteen months in Cuba.

Sir, I call the attention of the chairman of the Committee on Foreign Affairs to this misrepresentation of his predecessor. I ask him to explain this flagrant falsehood, and show us how it occurred.

I, sir, entertain no unkind feelings towards the author of that report; but surely it is my duty to place these matters accurately upon the record of our debates, that those who come after us shall be able to understand this subject.

And, sir, this is the report to which the President refers us for a guide—a report bearing upon its face such obvious misrepresentations; and I will remark here that, for this purpose, it is totally immaterial whether the falsehood was designed or occurred through the ignorance or inattention of the author; for put which construction upon it you please, and it will be acknowledged on all hands that the report is unworthy of confidence.

It were probably useless to follow this report further for the purpose of satisfying this body of its real character; but I see that this claim is to live so long as the slave power has influence in this Government; and I desire to show our successors the statesmanship, the views entertained by the author of this report, and now quoted by the President as an authority to guide intelligent members of this body in the discharge of their official duties.

The report urges that the "*permits,*" to which I referred in the opening of my remarks, were *conclusive evidence*, showing these Africans to have been "*ladinoes,*" that is, *legal slaves.* This committee will bear in mind that these certificates were given by the proper officer, and showed that Montez and Ruiz had paid the duties requisite to authorize them to carry fifty-two *legal slaves* from Havana to Principe. But the idea that such permits were evidence, to any extent, as between them and the negroes, or was even admissible testimony to show that these negroes were *slaves*, is a proposition too absurd to require argument before any tribunal. Yet, when the author of this report goes further, and argues that these permits were *conclusive* evidence, and that no proof of fraud could be permitted to show that Montez and Ruiz attempted to transport freemen under those permits, instead of legal slaves, the position becomes *ridiculous*, and sets all argument at defiance. The mere statement of the proposition is, probably, the most perfect refutation that can be given to it, and such was the opinion of the Supreme Court. Yet this report gravely attempts to show that the court erred in permitting evidence to be given that Montez and Ruiz fraudulently attempted to transport recently-imported Africans, under a perpermit to transport *legal slaves.* Now, sir, if the decisions of the Supreme Court are to be questioned and examined in this body, I insist it shall be done in a style more lawyer-like and more scientific than has been done in that report. But the author appears to have been apprehensive that this House and nation might recognize that well-known principle of international law, which has for ages existed and been acknowledged by all civilized Governments, that *no slave can be held, as such, within the jurisdiction of free laws.* Under this rule, when the Amistad arrived within our waters—when she came within the jurisdiction of our laws—these people were free, and would have been free, even if held as slaves in Cuba, agreeably to her laws.

I will here add, that it is an admitted principle, that the laws of every Government not only extend over all the harbors, bays, and rivers, of such nation, but the jurisdiction of those laws extend a marine league into the sea. Thus, when a foreign ship comes within a marine league of our shores, our revenue officers enter on board, examine her bills of lading, and take all necessary measures to prevent fraud upon our revenue; our health officers go on board, and examine her bills of health; our pilots enter on board, conduct the vessel into port, and demand their legal fees. In short, our laws take jurisdiction of the ship and crew.

Now, sir, when the Amistad came within our jurisdiction, when our laws spread their ægis over the people on board, it was a matter of course that those people were as free to go where they pleased, as were Montez and Ruiz. Indeed, those Spaniards were themselves restored to liberty by the force of our laws; and the negroes, had they been held as legal slaves in Cuba, under Spanish laws, would have been as free, the moment they came within our jurisdiction, as were Montez and Ruiz. This rule was recognized in England during the reign of Queen Elizabeth; and on the continent it was acknowledged and enforced, at even an earlier day, and I think, was never doubted nor denied until the year 1840, when the Senate of the United States adopted resolutions declaring that a ship driven into the port of a friendly Power by stress of weather, or other unavoidable accident, carries with her the laws of the Government from whence she sailed; and all the relations of the people on board which existed under the laws of such Government. In other words, the substance of the resolutions was, that a slave ship, when driven into a friendly port by stress of weather, may hold her slaves in the same manner as she would in the port from whence she sailed.

The author of the report quotes these resolutions to show that the Spanish slave ship Amistad had a right to come into New London or New York, and that the slave dealers could hold their slaves in such port, provided they had been legal slaves in Cuba; could flog them, cast overboard the sick, or shoot down the refractory, as they would in the "middle passage."

Now, sir, these resolutions were *manufactured to order.* The American slave ship Enterprise, sailing, I think, from Charleston, in 1834, was driven by stress of weather into Port Hamilton, in the Island of Bermuda. The case was entirely different from that of the Amistad, for the reason that the slaves on board the Enterprise were held under the laws of South Carolina as *legal slaves;* but when they came within the jurisdiction of British laws, they were of course free, and went in pursuit of their own happiness. When the Executive of the United States, ever alive to the interests of the slave trade, called on the British minister for indemnity, this rule of international law was referred to, and the payment promptly rejected.

This left the slave merchants remediless. But a distinguished Senator from the South endeavored to avoid the difficulty by introducing resolutions to *change*, to *modify*, and *repeal* the law of nations, so far as to make it conform to the interests of the slave trade. It is true that every Whig Senator, north of Mason and Dixon's line, save one, fled from the Senate Chamber; they dared not vote either one way or the other. I speak of those gentlemen with respect; but it is due to them, to this body, and to the country,

that I should speak frankly, that facts should go down to posterity as they transpire around us. For us to do otherwise, would be to deceive those who shall succeed us.

The resolutions were passed by the unanimous vote of Southern Senators and Northern Democratic Senators, *with one Northern Whig*. He was from Rhode Island, and I honor him for his boldness in placing his name on record in favor of that most singular attempt to change the law of nations. I like to see men bold even in their crimes. It looks as though they might be honest even in the perpetration of their iniquities.

The resolutions were carried, and Senators slept more soundly. But lo and behold! the next day the sun rose in the east and set in the west, precisely as it had done since its creation. And the next storm which swept over the Atlantic, drove British, and French, and Swedish, and Russian vessels into our ports. When they came within the jurisdiction of our laws, they yielded obedience to them; indeed, our own officers did not appear conscious that these resolutions had ever been passed. And I doubt whether an officer of any foreign port in the civilized world has yet heard of their existence. Yet this report can find no better arguments, no better grounds on which to recommend the payment of this money to the slave dealers, than those resolutions of the Senate, which have been regarded by the nation and the world as the production of an overweening anxiety to support the slave trade; resolutions which I do not hesitate to say, have never been recognized by the lowest officer engaged in our own revenue service. And, sir, are we, the representatives of the people, to be guided by them in the discharge of our duties?

Why, sir, the very next year after the passage of these resolutions, the American slave ship Creole, with her cargo of human beings, when within some twenty-four hours' sail of New Orleans, was taken possession of by the slaves on board; and when one of the slave merchants attempted to reduce them to subjection, they laid him low in death, just as you, Mr. Chairman, would have done, had you been in their place; just as I would have done, and as any other man, who has the heart of a man, would have done. They took the ship into the British port of Nassau, and so soon as they came within the jurisdiction of British laws they were *free*.

This report says that our Government *required their surrender*, and quotes that requisition of a slaveholding Executive as evidence of the law of nations, and proper to guide us in the discharge of our duties.

Surely I need not say to this committee, that when the letter of instructions from our Secretary of State to our Minister at London was published, its doctrines were denied on this floor by resolutions presented to this body. It is true that the humble individual presenting them was driven from his seat for that avowal of truth, but the public press spoke forth its denunciations of that letter, and its doctrines so abhorrent to American liberty. The popular sentiment of the nation condemned them; but the author of the resolutions, which denied the doctrine of that letter, survives. His presence in this Hall to-day is a living contradiction of the sentiments and the doctrines of the Secretary of State. Why, sir, the Secretary himself receded from his own position. The demand on the British Government was suffered to sleep. Neither Whig nor Democratic party has since renewed the demand. And although Mr. Webster again came into the office of Secretary of State, under the late Administration of Mr. Fillmore, I have yet to learn that he ever renewed the demand, or that he, or any other Secretary of State, has yet reasserted the doctrines of that letter. Yet this demand, which was so suddenly abandoned, so universally condemned by the public press, and by the people and statesmen of the United States, given up by its author, and discarded by every Administration since 1842, is quoted as an authority to guide us on the subject of paying for these Africans. Sir, I will spend no more time on this report than to say it assails our courts of justice, charges the judges with ignorance, dereliction of duty, with being swayed by popular sentiment, and contains a labored argument in favor of slavery and the slave trade.

I have now examined the facts and arguments of this case, in a very brief and hurried manner, and will, for a moment, look into the objects and policy of those who advocate its payment.

Mr. Chairman, it is very properly asked, why does the President thus exert his influence in favor of slavery? What object has he for so doing? What motive stimulated the author of this report? What was the design of the former Secretary of State? What feelings prompted the Senate to pass the resolutions referred to? I answer, the same motives which have prompted oppressors in all ages of the world. It is that desire of man which has ever prompted men in power to seek self-aggrandizement by degrading their fellowmen. Why do men in the slave States hold their fellow-men in bondage? Because it gives them pecuniary and political power. Why do northern men lend their influence to continue the slave trade in this District? Because it secures to them the favor of the slave power. Why, sir, I recollect that this body, a few years since, adopted resolutions which, if carried out, would have abolished the slave trade here. A motion was made to reconsider the vote by which they were adopted. The motion prevailed, by the aid of some twenty-seven northern Whigs, who thus gave their influence to continue the slave trade. And within the next six months, nearly one half of those Whigs held appointments under a slave-holding Executive, and were getting rich upon the public Treasury. Why, sir, I need not inform the country, nor this body, that Executive patronage is now made to depend upon the degree of servility which the applicant for office manifests towards the "peculiar institution." Scarcely sixty days have elapsed since an edict was issued by the present Cabinet, or rather by a member of the Cabinet, proclaiming the determination of the Executive "*to crush out*" all who advocate the cause of freedom.

Now, sir, the efforts of those officers to whom I have referred, in favor of slavery and the slave trade, are put forth with a distinct object; that is, the attainment or maintenance of political place and power, by the sacrifice of truth and justice, and the doctrine of universal equality of natural rights among men. The remedy is with the people, and I thank the President for thus bringing the subject before the nation.

These negroes, standing upon the deck of the Amistad, breathing the free air of heaven, felt the inspiration of their own immortality impelling them to vindicate their manhood, to strike for liberty. The President insists that they had no right to do that. We say that God had endowed them with freedom, and it was their *duty* to regain it. They thought of their homes, their country, the loved scenes of their childhood, of parents, of brothers and sisters, and wives and children. From all these they had been torn by ruthless violence. They felt the wrong which had been perpetrated against them, against humanity, and against God's higher law, and they rose in vindication of that law, and of those rights, and, thanks be to God! they succeeded.

But the report to which I have alluded, and which the President commends to our imitation, denounces them as "*pirates and robbers*" for that act; and, inasmuch as the courts declared them to possess the right of maintaining their liberty, the President thinks we should overrule that decision, and that the people of Ohio and the other free States ought to pay the piratical slave dealers the value of their blood and bones and sinews. Now, sir, on this proposition the Free Democracy of this nation will take issue. We are prepared to go to the country with it, to argue it before the people, to submit it to the decision of that tribunal before which public men are accustomed to tremble.

We ask no favors at the hands of those who advocate this slave trade; and I will frankly say to them, that I apprehend they will recede from the position which the President has assumed; that they will not dare sustain him. But I will remind them that this example of the negroes on board the Amistad is exceedingly dangerous to the interests of slavery. And if Congress also maintains the doctrine of the Supreme Court, and insists that *this Government was constituted to maintain the rights of all men under its exclusive jurisdiction to life and liberty*, we of the free States will soon be exempt and purified from the crimes and guilt of slavery, and the doctrines of the Free Democracy—the doctrines of Jefferson and of the Congress of 1776—will be established firmly and forever.

This, sir, is the great issue between the supporters of slavery and the advocates of liberty, and we are as willing to meet that issue on this Amistad case as on any other subject. Principles are uniform and universal, and should guide statesmen in all cases. He who holds "*that all men are created equal*," will never deny that these Africans were clothed with all the attributes inherent to our race; he who holds "*that all men are endowed by their Creator with the inalienable right to liberty*," will never vote to pay those Spanish slave dealers for their failure to enslave those to whom God had granted the inestimable boon of freedom; he who holds "*that this Government was constituted to secure the right of life, liberty, and happiness*," to the people, will never vote to prostitute its powers to encourage the slave trade, to maintain oppression, or dishonor our race.

THE SANDWICH ISLANDS.

SPEECH OF MR. WASHBURN,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

January 4, 1854,

In Committee of the Whole on the state of the Union, on the motion to refer the President's Annual Message to the appropriate committees.

Mr. WASHBURN *said:*

Mr. CHAIRMAN: I have taken this opportunity to express some opinions which I have formed in reference to a question of considerable magnitude and increasing interest, now engaging the attention of the American people, and which must, in the progress of opinions and events, become, at no distant period, a practical question for the action of this Government. I speak of the annexation of the Sandwich Islands to the United States. The interest of the State which I in part represent upon this floor—the largest ship-building, and one of the most important commercial States in the Union—in this question, must plead my excuse, if any be necessary, for occupying a portion of your time this morning in its consideration.

With the doctrines of "manifest destiny" in the raw and rampant forms in which they have been advocated so frequently of late, I trust I need not say I have but little sympathy. There is a school of statesmen, or politicians, in this country, which teaches in effect, if not in words, that the time has come in our history when our chief business as a nation is territorial expansion—when, to borrow the current phrase, it is our special "mission" to overrun and annex, with little or no regard to time, manner, or circumstances, whatever territories or possessions of other nations we may have the wish and the power to grasp. Of this school I am not a disciple. So far from being so, I have thought that our leading thought and purpose should be to learn and practice whatever would most certainly contribute to our domestic well-being and internal growth; to develop the resources, and cultivate to the highest the capabilities which are already ours; to strengthen the foundations where we stand; to fix our institutions so firmly upon our own land, and give them root so deep, with fibres so numerous and tenacious, in the soil of material, political, and social interests, that they will stand securely under all the pressure of rivalries and unfriendly interests and influences to which they may be exposed from without, and in all the storms of passion and faction that may, and will, arise within.

Policy and duty alike require that we should look more at home and less abroad than I think we are in the habit of doing. I have, therefore, been unable to yield my assent to the doctrines which deny the right of the General Government to protect and encourage by its legislation the home interests of the country; as, for instance, to remove obstructions in the great rivers of the Mississippi valley, for the advantage of commerce in a vast section of the Union; and, to the same end, to improve the harbors of our inland seas; to arrange and adjust the duties on importations, so as

Congressional Globe, House of Representatives, 28th Congress, 1st Session, Pages 500 through 504, The Amistad Negroes--Mr. Giddings April 18, 1844

If we intend to combine both the construction and repair of vessels, we must go down the river to a point not far above the mouth of Red river, up to which there is continuously deep water, and where there is comparatively a slack current. Here is a strong consideration in favor of a scientific examination, as proposed in my amendment. And surely four or five hundred miles will be far enough in the interior to give us security against sudden surprises, and the disastrous aims of British Paixhan guns. It would be insulting to an American Congress to elaborate such an argument. But should not the object be still further to collect materials for ship-building, naval stores, or provisions for the navy? In my estimation these considerations cannot be overlooked. While, in some of these respects, Memphis can have no advantage over any other place on the river, in other points, it labors under decided disadvantage.

After the junction of the waters of the Ohio and Mississippi at Cairo, in Illinois, there is no accession of water of any consequence till you reach the mouth of White river—a considerable distance below Memphis, and more than five hundred miles below Cairo. Then from the western side comes the Arkansas, which is one of the longest rivers of the United States, and then the Red river. On the east the Yazoo river pours in its mighty current some distance above Vicksburg, the Big Black and Bayou Pierre. Everybody knows that timber is never rafted up stream; and it is as familiar that most of the ship timber is taken from the forests of our extreme southern States. You could never collect a stick of live oak at Memphis. Indeed, all the valuable timber that adorns the banks of all our southern streams would more easily find their way to Boston than to Memphis. On the Arkansas and Red rivers, an extremely valuable wood, as yet scarcely known to shipbuilders, called the bois d'arc, or brass wood, grows in great quantities. In my estimation—and in this opinion I am sustained by others who have a more intimate acquaintance with the subject than I possess—this bois d'arc is soon to supersede the use of live oak timber altogether. The strength, durability, and shape of the wood will force itself upon the attention of our people, and secure to it favor. There is on all of these streams, both of Arkansas and Mississippi, an exhaustless supply of the tallest pine, cedar, and oak. And surely a western naval yard should not be so located as to defeat its own purposes.

But I may be told that, in the advancement of the age, iron will be the chief ingredient in all vessels hereafter to be built. This is to be obtained in the country above Memphis. This is true to a considerable extent. However, it is well known along the banks of the Arkansas, and in the interior of that State, iron ore is found in great abundance, and coal without limit. All of this country will be cut off from a market at your navy yard. In addition to this, the freight from Pittsburg to Memphis, and to Natchez, or even New Orleans, varies but a shade. Every western member is well acquainted with this fact. And thus the material from all States above will be as cheaply and as abundantly supplied to any point below as at Memphis. The same is true as to the price of provisions. The New Orleans market is just as cheap as the Memphis market, and in many things cheaper; and the same is true with the intermediate markets. So no peculiar advantage in this respect can be claimed by any one point on the river.

But I know the prejudice which lingers in the minds of many persons, who have never examined into the facts, as to health. But I feel assured that if gentlemen would come up to this subject honestly seeking for truth, they would change their views. It is a singular fact, that in Europe the invalid travels south for his health; in this government the inclination is to repair to the north. But without pretending to the gift of prophecy, I venture the assertion, that the fashion will change in fifty years. There are unhealthy locations in all climates. But the more equal climates, where the extremes of heat and cold are unknown, *ceteris paribus*, will in the end be recognised as the most healthy. The city of Natchez, for the last forty years, has been more healthy (and that period includes two or three epidemics of cholera and yellow fever) than the city of Philadelphia, or New York, or Boston. This remark is not based on loose conjecture, but on actual statistical facts of record; and should the statement be called in question, I am prepared with the proof, taken from Emerson's Medical Statistics. As no record, so far as I am advised, has been kept of the deaths of the various cities on the Mississippi river, I have been unable to institute a comparison; but I consider Natchez the healthiest city on the banks of the Mississippi river. As to the yellow fever, it is a fact well worthy of remark that no case has ever travelled beyond the limits of the city; and a navy yard would not be expected to be located within the limits of the city. As to a comparison of the health of Natchez with that of Memphis, I have not the data for correct information; but I feel confident an accurate inquiry would prove that Natchez had greatly the advantage. Adjacent to Memphis, a large stream empties itself into the river; the bottom is wide and damp, and the settlements on the whole stream are much subject to malignant fevers. On the bank opposite to the city of Memphis the bottom is forty miles wide, lying south and west. Natchez has been settled for nearly one hundred years. The whole circumjacent country is in a high state of cultivation, and covered with a dense population; the location is high, the air is pure, the climate delightful and equable; and there are no local causes of disease, but the river itself. At all events, these facts should be inquired into.

But it will be said, as it has been said in another quarter, that vessels can be easily taken up to Memphis. The facts are too stubborn to listen to such a thing for one moment. The proof is too clear, too positive, too direct, to entertain a doubt on this subject. No vessel made for war has yet been known to draw less than twelve feet water. I am told the Princeton, a light vessel, draws thirteen feet; the Mississippi steamship draws eighteen, and the Missouri did draw about the same. How many months in the year could such a vessel ascend the river as high as Memphis? In low stages, it is well known that, between Natchez and Memphis, there are several bars on the river where the depth of the water does not exceed six feet. This is incontestably proved by divers steamboat captains, whose affidavits accompany the Vicksburg memorial. There are few merchantmen which draw less than twelve feet water; and, whenever the entire channel is that deep, the current is so strong that the largest class of steamboats would be unable to tow an ordinary merchantman to Memphis. I have heard that an invention has been made by which all this can be remedied—that is, by the use of camels. This is a grand invention to help navy-yards a thousand miles from the ocean. Why choose a navy-yard where such an apparatus is required? This looks too much like the story of Mahomet, the prophet—as the mountain would not come to him, he concluded to go to the mountain; so, if the place does not suit the navy-yard, the navy-yard must be made to suit the place. Why locate your naval depot so high from the gulf as to require the aid of any such unwieldy apparatus? In what manner they could be used in the Mississippi river, however, is a perfect mystery to me. Having once struck down the legs of this camel into the bottom of the Mississippi river, and taken upon its back a ship-of-war, and heaved it over the shallow place, it would require no small quantity of corn and fodder to enable him to pull his legs out. Indeed, I could never tell when it would cease to go down, and down, and reach a solid bottom.

If, however, this bill is to be passed merely for the gratification of my good friends from Tennessee, you must look to the consequences. As soon as you locate it at Memphis, I shall press the strongest appropriations. Memphis is my market town. Here I land on my return home; and all of my neighbors do their shipping, and well nigh all their trading, at this place. Here I have many friends whom I esteem most highly; and were I acting here for myself alone, I should not have given utterance to the ideas advanced; but duty to my constituents, duty to the country at large, and an anxious desire that this experiment may prove successful, and meet the approbation of the whole West, require of me to throw myself in apparent opposition to this bill. Should an examination be made, and the officers of government designate this point, I will surrender unconditionally. The gentlemen from Tennessee are, without doubt, solicitous to locate this establishment within their borders. This is all right; but they should not be too eager for every thing. Her noble sons I stand ready to honor; and, with the help of the people, (which, I am sure, they are ready to give,) I will give to Tennessee our next President, and that will surely be honor and glory enough for one season.

As yet, no other location on the Mississippi river has been examined by the authority of this government. In justice, then, to other places—in justice to the members of Congress who are called upon to favor this establishment, so much desired by the people of the West—in order to give general satisfaction to friends, and to insure the success of the enterprise, let there be an examination, by a skilful and practical board of officers; and when all the information is laid before the House, no one can complain of the action of Congress. Make the location now, and there are many places on the river where the people will feel they have been overlooked, and their petitions slighted. Delay is not defeat, but tends more certainly to secure the object desired by us all—which is, usefulness to the whole country. And, with these remarks, I am willing to submit the question to the committee, and shall acquiesce, without a murmur, to the action of the House on the subject. I feel, now, that I have discharged my duty to my constituents, and to the country.

SPEECH OF MR. GIDDINGS,

OF OHIO,

In the House of Representatives, April 18, 1844—Upon the motion of Mr. CHARLES J. INGERSOLL to print ten thousand copies of the report made by the Committee on Foreign Affairs in favor of paying for the negroes on board the schooner Amistad.

Mr. GIDDINGS said that the printing so large a number of extra copies of this report would not only involve the treasury in an important expense, but it would also seem to imply a favorable consideration of the principles embraced in the report by a majority of the House. It is therefore important that gentlemen should understand, and be fully informed of its character.

It is (said Mr. G.) a report in favor of the slave trade; a subject on which our constituents are not permitted to approach us, on account of its "peculiar delicacy." Indeed, it was regarded as being so eminently "delicate" during the forepart of the present session, that the morning hour for nearly six weeks was spent in so arranging the rules of the House as to exclude all petitions from the people in regard to that subject. The honorable chairman of the Committee on Foreign Affairs [Mr. INGERSOLL] then voted for the rule excluding such petitions, for the purpose of suppressing all agitation of subjects connected with this slave trade. At this time he brings in a bill giving seventy thousand dollars to those slave dealers of Cuba; makes a long report in favor of the bill, and asks us to send out this vindication of the slave trade to the people at the public expense; yet he would not agitate the question here; no, sir, not by any means. Gentlemen who hold to the principles of this report, would desire that we should remain silent, and vote for the printing; and send it to the country, in order to agitate it among the people, but not here. Nor is this all: if any expression of opinion is had in this hall, it appears to be thought necessary that such expressions should be in favor of this traffic, and not against it. The gentleman from Pennsylvania [Mr. INGERSOLL] will understand my allusion when I say that I have had some personal experience in relation with this subject of the slave trade. A little more than two years since I took occasion in this hall to deny the right and the constitutional power of Congress to appropriate the money of the people to sustain this traffic in our own species. I presented my views to the consideration of the House in the form of resolutions. For thus daring to express my sentiments, a vote of censure was passed upon me by a large majority of this body. Among those who then publicly condemned me for this exercise of my rights as a representative was the honorable gentleman who now makes this motion! After voting to exclude the respectful petitions of my people to be exempt from the foul disgrace of participating in this most nefarious trade; and after voting to censure me for expressing my views in regard to it, he comes forward, introduces a bill to take seventy thousand dollars from the pockets of the people to pay these piratical dealers in the bodies of their fellow men; and accompanies the bill with an elaborate vindication of that commerce which we have, by our laws, pronounced piracy; and then asks us to print a large number of extra copies of this argument at public expense, to be distributed among the people of the nation. I had hoped that some other northern member would have met this proposition in a manner more able than I can do but as no other gentleman has appeared disposed to speak upon the sub-

ject, I feel compelled to occupy the attention of the House for a few minutes.

"There is a point beyond which forbearance ceases to be a virtue." In my opinion, we have now reached that point; and I do not believe that the people of my district would hold me excusable were I to sit in silence, and permit this motion to succeed without any show of resistance. As remarked on a former occasion, these proceedings to which I have thus briefly alluded, present the majority of this House in the attitude of holding a gag in the mouths of their constituents with one hand, while the other is employed in taking from their pockets the funds to be paid over to these slave dealers, as a compensation for their intended victims, who possessed the heroism to escape from their grasp.

With these preliminary remarks, I will call the attention of the House to a brief history of the facts connected with this case. In 1839, a number of slaves were imported from Africa to Cuba, by certain Spaniards, in violation of the laws of Spain, and contrary to her treaty stipulations. Arrived at Havana, they were imprisoned in the baracoons, until a sale of fifty-two of their number was made to Montez and Ruiz, who appear to have purchased them of the importers, in order to take them to "Principe." For this purpose they obtained licenses of the government to transport fifty-two "*ladinos*," or "*legal slaves*," to that place. It will also be borne in mind that those licenses, or passports, were granted by the governor while these people were imprisoned in the baracoons, shut out from all intercourse with any human being who appeared disposed to aid them, or sympathize with them.

[Mr. INGERSOLL said the gentleman from Ohio was stating facts that did not appear upon the record.]

Mr G. I am stating the facts as warranted by the record. It is true, the record does not go into detail, so far as to say that the Africans were not present at the time the passports were granted; but it shows that they were imprisoned from the time of their arrival until shipped on board the Amistad; of course they could not have been present. The passports were also granted to Montez and Ruiz, and stated that "license was given to them to take fifty-two "ladinos" to Principe. They were not licenses to the Africans to go there; but the parties to them were Montez and Ruiz on one part, and the governor on the other. They left the island on the 26th June, A. D. 1839, and after being five days at sea, they rose upon those who held them in durance, and asserted their right to liberty. In the struggle that followed, the captain and cook were slain, and the other persons forming the crew and passengers surrendered, and the negroes thus became masters of the vessel. They, however, appear to have been actuated by no other motive than a love of liberty. They shed no more blood than was necessary to obtain their freedom. They placed two of the sailors belonging to the ship on board a boat, in order that they might reach the shore. They retained Montez and Ruiz on board to navigate the ship, and directed them to steer for Africa. These men being unwilling to go to Africa, ran the vessel for New England, and in August reached the eastern end of Long Island. A portion of the crew went on shore to procure water and provisions. While they were on shore for that purpose, Lieutenant Gedney took charge of the ship and of the persons on board, claiming vessel and people as "derelict property." Some of the inhabitants also arrested the negroes on shore, and claiming them to be property, insisted upon their right to salvage, as though they had been so many boxes of dry goods. Montez and Ruiz claimed to be owners of the ship and cargo, and of the people on board. The negroes claimed that they were free under the laws of nature, of nations, and of Spain. They denied that they had ever been slaves under the laws of Cuba, or any other government. The case was managed by able counsel, and after the most mature deliberation, the court decided them to be free; and they were therefore permitted to enjoy their freedom. They returned to their native country long since; and now, after the lapse of four years, it is urged that the court erred; and the Committee on Foreign Affairs report a bill to take seventy thousand dollars from the people of this nation, to pay these slaveholders for their loss of human flesh. Most of this sum must come from the people of the free States, who hold this traffic in detestation. They would not be likely, therefore, to feel perfectly satisfied if their servants here shall thus involve them in the disgrace of this trade in mankind.

Hence the necessity of sending out this extraordinary number of the report, which is, perhaps, the ablest vindication of the slave trade that has emanated from any legislative body during the present century. It is hoped that this argument will have the effect of reconciling our people of the North to the degradation of becoming involved in the guilt of this commerce.

The author of the report is entitled to much credit for the boldness of his positions: to stand forth upon the records of our nation as the advocate of slave merchants; to espouse the cause of slavedealers, and to denounce those who oppose that "execrable commerce," requires at this day no small portion of moral courage. The report in question, with great gravity proposes to review and examine the solemn decision of the highest judicial tribunal known to our laws. It goes on to point out the supposed errors, and proposes that we shall correct them.

This, I believe, is the first proposition of the kind ever brought before this body. A new precedent is sought to be established. We are to erect ourselves into a court for the correction of errors committed in the judicial branch of government. How far the precedent is to extend, I know not: nor am I able to say whether this supervisory power is also to extend over the executive department, or not. We have generally found much more business than we have been able to transact, while we confined ourselves to the legitimate subjects of legislation. But if, to these ordinary duties, we add that of a court for the correction of errors, it will become necessary to have another department formed, whose duty it shall be to *legislate* for the nation. And what, I ask, is the occasion which demands of us thus to assume new duties unknown to the constitution? Why, sir, it is nothing less than to pay a sum of money from the public treasury to these slave-traders, in a case where the law would not give it. We pay a million dollars annually to suppress the African slave-trade, and to hang our own people who engage in it; and we are now asked to pay a large sum to these Spanish slave-dealers to encourage them to persevere in their accursed vocation. How many gentlemen who placed their names on record but a few days since in favor of a large appropriation of money to suppress this African slave-trade, are now willing to record their names in favor of an appropriation to *promote* it? How many are prepared to vote that trade to-day who voted against it yesterday?

But I object entirely to sitting in judgment upon the doings of the Supreme Court. It constitutes no part of our legitimate duties: it is not embraced within our constitutional powers.

As an evidence of the impropriety of entering upon such an undertaking, I need only refer to some points in this report. The first error assigned by the committee, to which I will call the attention of the House, is this: That the court did not regard the passports, or license, given by the governor of Cuba to Montez and Ruiz as conclusive evidence against these Africans. The committee speak of these passports as "*documentary evidence of a high nature*," and appear to regard them as conclusively showing that the negroes were slaves. I have heretofore stated that they were given by the governor to Montez and Ruiz while the negroes were not present. It was done without evidence, or even the least inquiry whether these people were "ladinos," or not. The license was merely to take fifty-two "ladinos" from the Havana to Port Principe. But the governor called no witness as to the fact of these people being ladinos. He made no inquiry; nor were the negroes in any manner parties to the instrument, or privies in law. They were ignorant of the execution of the passports, and even of their existence. Yet the committee regard these passports as "*documentary evidence of a high character*," not merely obligatory upon the negroes, and sufficient to deprive them of their liberty, but sufficient to bind the people of the free States, and to take from them their money, for the benefit of Spanish dealers in slaves.

I wholly dissent from this doctrine. These passports were doubtless evidence between the parties to them. They would bind the governor who made them, and Montez and Ruiz to whom they were made. Here their legal effect stopped. They were not legal evidence against those Africans. They were neither parties or privies to the passport. I think no member of this body will contend that it was in the power of the governor of Cuba, with the aid of Montez and Ruiz, to manufacture evidence which, in law, could bind those Africans; and that, too, in their absence, and without their knowledge. It will also be borne in mind that the governor was merely a ministerial officer. He instituted no inquiry as to the condition of these men. He neither examined them, nor called witnesses, nor examined evidence. These slave-dealers called on him for the license to take fifty-two slaves to Principe, and paid him the customary duties.

[Mr. INGERSOLL wished to say that the governor had the bills of sale, by which these negroes were transferred to Montez and Ruiz, before him when he granted the passports.]

Mr. G. resumed. I have no recollection of that fact. But suppose it to be true: it only shows that the principle cannot be sustained by that fact. These bills of sale were made out by the importers of those negroes. These importers were pirates, and Montez and Ruiz purchased the negroes, knowing them to have been unlawfully imported. These bills of sale, therefore, were the writings of one pirate, made and executed without even the semblance of an oath, and then delivered over to other pirates who laid them before the governor as evidence; and the gentleman who drew this report relies upon these bills of sale, made under such circumstances, as the evidence on which the governor acted. Of course, the action of the governor could add nothing to the force of this evidence, for he founded his opinion upon such bills of sale. If they were false, then his opinion would, of course, be unfounded. If they were fraudulent, his judgment must be wrong. If they were of doubtful character, his opinion would be of the same description. And, according to all logic, the whole case stands before us as though we now had the bills of sale to act upon, and nothing more; for I repeat, that the opinion of the governor, founded upon those bills of sale, could add nothing to their force or validity; and this report, in that case, rests wholly upon the word of a pirate, and that, too, *without oath*. Is it upon such proof that we are asked to take money from the treasury and give it to those hucksterrs in humanity?

Why, sir, suppose the honorable member from Philadelphia, who framed this report, had been seized by the same pirates, and, with fifty-one of his neighbors, carried to Havana and shut up in the baracoons; that, while thus confined, his pirate captors had made a bill of sale to Montez and Ruiz, who thereupon had obtained a license from the governor to transport fifty-two "ladinos" from Havana to Principe: would such permit have proven the honorable gentleman and his neighbors to be in fact "ladinos?" The proof would have been the same as in the case under consideration. Had our friends and countrymen been thus seized, carried to Havana, and reshipped, and had they made their escape in the same manner that those Africans made theirs, and landed at the same place, and been brought before the same court, claimed as slaves, would the court have hesitated a moment in liberating them? Would the gentleman, in such case, have been willing to fall a victim to his own doctrines? Yet, sir, these passports would be as binding on Americans as they were upon Africans. They would have been as obligatory upon the gentleman as they were upon Cinqua and his associates.

The same rules of law would apply to both; and the court, according to the principles advocated in this report, would have been bound to deliver the gentleman over to these slave-dealers, to suffer upon the gibbet as a terror and an example to every other human being, who loves liberty and detests slavery. Sir, I am not willing to pay out the public money for the purpose of promulgating such principles of law among my constituents. I think very few of them would be misled by such doctrines, yet it would be at least a useless expenditure of money.

But the report speaks of these Africans as "murderers and pirates." Opprobrious epithets cost little. The word "murderer" is as easily written as "African;" and to the unthinking it carries with it at least an imputation of guilt, and may serve to impress their minds with an idea that a person held in slavery in violation of all law, human and divine, possesses no right to assert his liberty, or to slay the man who would hold him and his offspring in degrading bondage. Sir, there was a day when Africans held Americans in slavery. In the year 1804 many Americans were held in slavery by the Algerines with as much justice, and as much law, as these Africans were held by Montez and Ruiz. What terms were then applied to the Algerines who held them in slavery? Why, sir, the whole civilized world pronounced them "pirates and robbers." The contempt and execrations of civilized man were con-

centrated upon them. But this report speaks of Montez and Ruiz as "much-abused gentlemen." They merited death as much as the Algerines did. In point of crime, they stood upon the same level; but while we call the Algerines "barbarians," "pirates," and "robbers," this report speaks of Montez and Ruiz with the highest respect. Sir, such was the feeling entertained by the American people towards those who held our countrymen in bondage, that we sent a fleet, commanded by our most gallant officers, to slay them; and most valiantly did they perform that duty. Why, sir, look at the beautiful monument in front of this Capitol. On it you will read the names of Somers, Caldwell, Decatur, and others, who fell gallantly fighting to relieve their countrymen from the galling chains of slavery. They and their comrades slew those Algerines by scores and by hundreds, for the identical cause which nerved the arms of Cinqua and his associates on board the Amistad. For their noble deeds we have erected a splendid monument to their memory. But this report stigmatizes those who slew the Spanish slave-traders as "murderers and pirates." Sir, the principles of justice are unchangeable and eternal. If it were wrong in the Algerines to enslave Americans, it was equally so in these Spaniards to enslave Africans. If it were just and right to slay those Algerines who held Americans in slavery, it was equally just and proper to slay the Spaniards who held those Africans in slavery. If those who slew the Algerines performed a brave, noble, generous, and patriotic act, those who slew the Spaniards performed an act no less gallant and noble. On the other hand, if Cinqua and his associates were "murderers and pirates," we ought at once to tear down the proud monument to which I have alluded, and to erase those names inscribed upon it from the page of American history. This report is a labored attempt to disparage deeds of heroic patriotism. It stigmatizes Cinqua and his associates as "pirates and murderers," for the reason that they fought gallantly for freedom, and despised the craven coward who would submit to slavery. Sir, I do not wish to inculcate such sentiments in the minds of American youths; I would rather appropriate this seventy thousand dollars to erecting a monument to perpetuate the gallant deeds of those rude Africans.

Another feature in this report demands a passing notice: I allude to that portion which attributes to "British influence" the support of those doctrines which were put forth by Jefferson, in the declaration of independence in 1776; and charges the advocates of American liberty with being actuated by "foreign influences." Sir, the patriots of 1776 declared "that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among those are life, liberty, and the pursuit of happiness."

To-day I declare that Cinqua and his associates were created equal, with those who now sit in this hall; that their rights were inalienable; that their claim to liberty was as clear and indisputable as ours. These, sir, are my sentiments; and am I to be charged with acting under "British influence? Are the people to be told that the doctrines uttered by our fathers have been repudiated by their sons? That the high souled love of liberty, so zealously inculcated by the heroes and patriots of the revolution, has fled from the bosoms of their descendants? That it is only kept alive in this republic by "British influence?" Have we, sir, yielded those principles for which so much effort was put forth, so much treasure expended, and so much blood was shed in our revolutionary struggle? Do the sons of the pilgrim fathers now bow submissively to the "dark spirit of slavery," unless operated upon by "foreign influences?" If such be the case, let us mourn over our degeneracy in silence; but, in the name of justice, let us not incur the unnecessary expense of publishing such facts to the world. Other nations will become acquainted with our degradation without our being at the expense of printing it for their benefit.

But, sir, what shall we say of those who practically deny these doctrines, and uphold wrong, injustice, oppression, and crime—those who stand forth as the open advocates of slavery and the slave trade in all its hated deformity—who would sustain that execrable commerce in human flesh at the expense of our laboring people—who would appropriate the earnings of our freemen of the North, to encourage Spanish slave-dealers in their purchase and sale of fathers and mothers and children? I will not accuse them of being operated upon by slave-trading influence. I leave them, their influences, and motives, to the judgment of those to whom we are all accountable; "to their own masters they stand or fall."

Another point in this report to which I wish to call the attention of the House and country, is that which insists that these people, who had liberated themselves from the power of their Spanish oppressors, and who had landed upon the territory of our empire State, were in fact the property of these Spanish slave-dealers.

From the arguments used in this report, the people will be led to believe that man, bearing the impress of his Creator, standing upon the soil of New York, may be seized as property by inhuman monsters from the Spanish slave ships, and carried to Cuba, to bondage, degradation and death; that man may be held as property in New York by Spanish slavers. If so, it follows that he may be bought and sold there. For, truly, New York affords a market for all kinds of property; and we may expect to see men sold there as well as other property, if this doctrine be correct. Is this the case? Do the laws of New York recognise such doctrine? Do the laws of the United States regard man as the property of his fellow-man? No such principle can be found, either in the laws of New York or of the United States.

I deny that under our federal constitution man can be regarded as *property*. I say this because that instrument regards slaves as *persons*, and not as *property*. I say it would be *wrong* to admit that man can be made property. I make this declaration because Mr. Madison (the father of the constitution) made the same assertion at the framing of the constitution.

[Mr. C. J. INGERSOLL wished to know where the evidence of Mr. Madison's opinion was to be found.]

Mr. G. resumed. Mr. Madison's opinion on this subject was recorded by himself, among the debates on adopting the constitution, and may be found in the "Madison Papers." I do not now refer to the right of the slave States to declare one part of their people to be the property of the others. I only say that man cannot be made property, except by the positive enactment of the supreme power of a government. We hold our title to property independent of municipal law. It is said that man holds dominion over the beasts of the field and the fowls of the air, from the Creator who formed them; and that such dominion has been continued down to this day: but no such power was given to one man to hold another in subjection as property. It can, therefore, be done only by the supreme power of the nation. Our paramount law has conferred upon Congress no authority to transform our fellow-men into property by legislative enactment. No attempt to pass such law has, to my knowledge, been made, although frequent efforts have been put forth to induce Congress tacitly to admit, by our action, that man may be holden as property. When our own citizens of the slave States have called on us to pay for slaves lost in the public service, we have uniformly refused such payment.

But these people were not, at any time, slaves under Spanish laws. They were no more property than the author of this report and his neighbors would have been property, if forcibly taken by pirates from "the good city of brotherly love," and carried to Havana, and reshipped for Principe, and then had reached Long Island by the same means used by these Africans. If such had been the case, I doubt whether the honorable gentlemen would have reported a bill to pay these "much-abused Spanish gentlemen" seventy thousand dollars for fifty-two Philadelphians. I doubt whether he would have regarded himself as a "pirate" or "murderer;" nor do I think he would have denounced me as acting under "British influence" in asserting his right to liberty, or in expressing my hatred of his captors.

But, sir, suppose these people had, under the laws of Cuba, been slaves, imported into that island prior to the treaty between Spain and England, while their laws permitted the importation of Africans as slaves, and they had made their escape in the manner adopted by these people, and had reached our shores, and sought our hospitality: would we then have delivered them up? Is there any principle of international law, or is there any treaty stipulation resting upon us, or is there any principle of morals, that would have required us to deliver them over to these rapacious slave-dealers? All principles of good faith and of international law forbid the surrender of those who seek our protection. When individuals reach our shores, they are entitled to our hospitality, and to personal security. We cannot inquire into the relation which existed between them and other people, under the laws of other nations. When they leave such governments, those relations are suspended until they return within the jurisdiction of the laws under which such relations existed. If an apprentice from Great Britain were to reach our shores, and his master should call on our government to arrest him and deliver him over to the parent or guardian, we could not enter into the investigation to see whether he were or were not an apprentice under English law. If a serf of Russia should escape to our shores, and his owner were to demand his arrest and delivery, there is no officer of this government that possesses authority to institute an inquiry into the relation that existed between them while both were within the jurisdiction of Russian laws. The same rule would apply to Spanish slaves. When they, or the serfs of Russia, or the apprentices of England, reach our shores, they virtually become free. They are entitled to our hospitality and protection. This doctrine has been recognised, I believe, by all civilized nations for centuries past. But this report seeks to overthrow this established law of nations, and to set up new principles unknown among civilized governments. The author quotes the 8th, 9th, and 10th articles of our treaty with Spain, made in 1795. By the article first referred to, this government covenanted to permit Spanish vessels, driven into our ports by stress of weather, by pirates or enemies, to depart with their people. Now what connection there is between the provisions of this section and the case under consideration, I am unable to discover. These were Africans who sought our hospitality, and not Spaniards. It is, however, true that these Africans were not permitted to depart as they should have been, but were detained in prison, contrary to all law and precedent.

The next section quoted, provides that we will deliver to their Spanish owners, all ships and merchandise, rescued out of the hands of "pirates or robbers." The negroes had rescued this ship from the hands of men whom we regard as pirates. But it was not brought to our shores by "pirates or robbers;" but by freemen, who had fought for their own liberty, and who had gallantly won it, and to whom the ship and cargo belonged, as clearly as any ship captured during our revolution belonged to its captors. The last section quoted relates to the charges and dues which shall be paid by the vessels of each nation, when under the necessity of repairing in the ports of the other.

The author of the report insists that these sections of the treaty "imposed upon this government the high duty of surrendering up the negroes." He does not, however, designate which section or clause imposed upon us that duty. He leaves the reader to search that out for himself. He terms the the negroes "pirates and murderers;" but neither section has any relation to surrendering up offenders of any description. If they were in fact "pirates or murderers" under our laws, it would have been our duty to have detained them, and tried and punished them, instead of surrendering them up to any other power. I understand, however, that the author regarded these people as property, and embraced under the term "merchandise," used in the ninth section of the treaty. And, sir, we are, I suppose, to understand this as the democratic doctrine, that men and merchandise are convertible terms. That men are to be regarded in New York as objects of purchase and sale. Indeed I do not know but such is to become the established opinions of this House, under its present democratic majority. As I have already stated, we have always, since the adoption of the federal constitution, refused to pay for slaves when killed in the public service. But we have bills already reported at this session in favor of paying from the public treasury ninety-three thousand dollars for persons sold as slaves; but who were disposed to take care of themselves, and would not remain in servile bondage. I had hoped, however, that our people of the free States would not be taxed to pay for slaves of other nations. But this bill and report have dissipated that expectation. The Committee on Foreign Relations appear to think that our good people of the North are bound to pay to these "much abused piratical Spanish gentlemen" the trifling sum of seventy thousand dollars, in consequence of the ungovernable love of libery which these Africans possessed. It is, however, difficult to understand precisely the logic by which the laboring men of my district are to be held responsible for the conduct of Africans

on board the Amistad. Perhaps the honorable chairman can inform the House as to the mode of reasoning by which that point shall be made clear to the understanding of us all. But to return to the treaty: the Supreme Court were of opinion that none of those stipulations were applicable to this case. The author of the report has not condescended to point to the particular clause which he regards as applicable; but seems to think that all taken together, contains some obligation, not to be found in either section separately. I fully concur with the court. I believe that tribunal was right, and that the report is entirely erroneous. On this account, I would not vote to appropriate the public funds for the purpose of distributing such matter among the people.

But there is another point in this report to which I am desirous of bestowing some attention. In order to establish certain prineiples of international law, the author has quoted the resolutions of the Senate, adopted by that body in 1840, and which are in the following words:

1. That a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the state to which her flag belongs—as much so as if constituting a part of its own domains.

2. That if such a ship or vessel should be forced by stress of weather, or other unavoidable cause, into the port and under the jurisdiction of a friendly power, she and her cargo, and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the state to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances.

3. That the brig Enterprise, which was forced unavoidably by stress of weather into Port Hamilton, Bermuda island, while on a lawful voyage on the high seas, from one port of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board by the local authority of the island was an act in violation of the laws of nations, and highly unjust to our own citizens to whom they belong.

After quoting these resolutions, the report assumes that they express correctly the law of nations, and proceeds to say:

Thus, wherever the flag goes the country is. In whatever distant seas or foreign ports, wherever the national flag floats, there is the nation. Spain, therefore, with all her laws, reigned on board the Amistad as much at sea, and in Connecticut or New York, as at Havana. This fundamental principle of maritime power and peace is always to be kept in mind. In the similar case of the American mutineer slaves on board a vessel called the Creole, the government of the United States required their surrender from the authorities of a British colony, under circumstances less aggravating than those of the Amistad, properly insisting that vessels are, in contemplation of law, part of the territory of their country; and that, independent of treaty stipulations governments are bound by the mere comity each owes to the other not to shelter, but to deliver pirates, murderers, robbers, and other criminals to each other, for trial and punishment.

I am not prepared to adopt these resolutions as expressing the law of nations. They were adopted for the purpose of being applied to a particular case that had occurred prior to that time. The Enterprise, an American slave ship, had been driven into a British port by stress of weather. The slaves being once on shore, refused to go on board, or to return into slavery; and the President demanded compensation to the slave-dealers for their loss. The British government denied that they were under any obligations to aid in carrying on the slave trade, or to compensate those who were engaged in it for slaves who escaped from them. To settle this question, the Senate of the United States passed the above resolutions, which I suppose to be no better evidence of the true principles of international law than the assertion of opposite doctrines by the British government. I, sir, look with distrust upon doctrines advanced under such circumstances.

Another fact adds to the distrust with which I am inclined to regard these resolutions. They were introduced by a slaveholder, directly interested in upholding these doctrines. They were also supported by slaveholders, and by "northern men with southern principles." Scarcely a whig senator from the free States voted for them.

[Mr. INGERSOLL remarked that it was a unanimous vote.]

Mr. GIDDINGS. I am aware that all who voted were in favor of their adoption; yet there were but thirty-three votes given, whilst there were fifty-two members.

[Mr. INGERSOLL. They were all present.]

Mr. GIDDINGS. I feel humbled under the allusion of the gentleman. The senators did not vote. If they were present, as I am told they were, and silently permitted slaveholders and their "allies" to speak for the free North, they surely are responsible, not I. I regret that they should have failed to speak, but it is not for me to dictate to them, or to reproach them for their timidity; to their own masters they stand or fall. But I may say with propriety, that those slaveholding senators were not authorized to speak for me, or to lay down rules of national law to bind my people; nor am I under any obligations to adopt their sentiments, unless they are in accordance with truth. The doctrines put forth on that occasion were novel and unheard of, until introduced on that occasion.

[Mr. INGERSOLL said they were regarded as law by all civilized nations.]

Mr. G. I aver that, up to the time of their introduction to the Senate, such principles had never been put forth by any writer upon international law: I defy the gentleman to produce any reputable author who maintains such doctrines. I speak with confidence; but if the gentleman will produce any respectable work containing such doctrines, I will frankly confess my error before this house and the country.

[Mr. INGERSOLL said the Chamber of Deputies in France had very lately recognised the same principles.]

Mr. G. I am of course unable to say what the Chamber of Deputies may have done; but I would far rather see the official report before I lend full credence to the charge of their having so widely departed from the established law of nations. It is true that versatility is said to be a characteristic of the French people; and history has recorded some strange extravagances of that brave and generous nation; but I have never read anything that would warrant the belief that they would adopt those resolutions.

So far as the present argument is concerned, I will take the first resolution to be correct: that a ship, while engaged upon a *lawful* voyage, upon the high seas, is subject to the laws of the nation under whose flag she sails. But I deny that the Amistad was engaged in a lawful voyage. She had on board fifty-two free persons, imported to Havana as slaves, and who were re-shipped on board that vessel by Montez and Ruiz, knowing the fact of their unlawful importation. This was in violation of the laws of Spain. The Amistad was now engaged in completing the original voyage, as much so as she would have been, had she taken then on board at the island of "Fernando Po." While thus pursuing a piratical voyage, she certainly was not governed by the laws of Spain; nor was she pursuing a lawful voyage; and while attempting to carry freemen into slavery, the Spanish flag could lend her no protection. The rising of these people in behalf of their natural and inalienable right of life and liberty, was not only justified by natural law, but was in perfect accordance with the laws of Spain, and of every other civilized nation of the earth. It was an act of self-defence, which is emphatically "the first law of nature;" and is in perfect accordance with the municipal code of Spain. While the captain, and Ruiz and Montez, were thus violating the law of Spain, they could no more claim protection from Spanish law, than though they had been committing murder or robbery. The Africans were bound, by every duty which they owed to God, their country, and posterity, to resist, to the utmost of their power, those who were carrying them into slavery, although such resistance might cost the life of every white man on board. When they had obtained possession of themselves, and had become masters of their own persons, what was their situation? They were on board this ship, thousands of miles from their native land, from whence they had been brought by the rapacious slave-dealers. To return to Havana would be voluntarily to place themselves within the power of a people who had treated them in a piratical and a barbarous manner. It should be borne in mind, also, that they had been placed in this situation by their oppressors, Montez and Ruiz. And I now ask the jurist, and the statesman, if there could be any doubt as to the perfect right of these people to use and employ the ship for the purposes of transporting themselves back to their native land; or that this right was perfect and absolute, under the laws of Spain? The Spanish slavers who brought them from Africa did so in violation of all law, both human and divine. In committing this crime against humanity itself, they were protected by no law against the force of these people, who had an undoubted right, at any time, to assert and maintain their liberty, although, in so doing, they might slay every Spaniard on board. Suppose, when they had been ten days at sea, the Africans had risen and obtained possession of the ship: what, under such circumstances, would have been their rights, and their duty? Would the author of this report urge that they would have been bound to pursue the voyage, and surrender themselves to imprisonment in the baracoons, and sale in the slave markets of Cuba, according to the original designs of their captors? No, sir; the common sense of every man would shrink from such a proposition. All will say, at once, that they would have had the clear and unquestionable right, and it would have been their duty, to use the ship for the purpose of returning to their families, their friends, and country; and that, in doing so, they would have violated no law of Spain. I will carry the hypothesis a little further. I will suppose that, on their return to Africa, they had found it necessary to call at some island—Fernando Po, for instance—in order to obtain water: would the people of that island have possessed the right, by the law of nations, to take their ship from them? On this point, I think it difficult for men to differ in opinion. It is equally obvious that the rights of the Africans had in no sense been changed by being carried to Havana, and there reshipped on board another vessel. The power to assert and maintain their rights had been suspended for a greater length of time than in the supposed case. Other persons had assumed the places of their captors; but that act of taking the place of their captors, and attempting to carry out the objects and the voyage of those who brought them from Africa, rendered them in all respects liable to the same dangers from their captives.

Thus it appears most obvious to my mind that the ship became the property of the Africans, at the time they assumed the control of it; that, when she entered the waters of the United States, she did so in the character of an *African* vessel; that all interference with their rights, by Lieut. Gedney, or others, was unauthorized and improper. They should have been permitted to depart with their ship, or to sell it, together with the cargo, as they might have deemed advisable. A state of war existed between the Spaniards and these Africans. It may have been that state of war which writers upon national law term *imperfect;* but, whether it was a state of *perfect* or of *imperfect* war, the ship and cargo belonged to the captors, as indisputably as any prize captured in war between civilized nations belonged to the captors. Yet it was taken from them, most wrongfully, by our people; and such was the novelty of the case, and so little had our people then reflected upon the rights of Africans, that an opinion appeared to prevail, even among lawyers, that they possessed no rights; and, for that reason, no claim to the ship and cargo was exhibited by their attorney. Our people, therefore, deprived the *Africans* of their property, and not the Spaniards; and, had the Committee on Foreign Relations reported the bill to refund to them the value of the property which we took from them, and a reasonable compensation for the time they were detained in prison by our people, I might have approved of the measure; and, if this report had followed the law of nations, as laid down by all approved authors, I would have voted to print the extra copies now moved by the honorable member from Pennsylvania.

But, Mr. Speaker, for the sake of the argument, let us suppose that these people had been imported into Cuba prior to the treaty between Spain and Great Britain, in regard to the slave trade, and had been held in slavery under the laws of Spain, for twenty years, and had then been shipped on board this schooner, and had obtained possession of her in the same way: would their rights have been in any assential respect different? I answer, they would not. Slavery itself is a state of war. No law of the slaveholding government can bind the slave in a moral point of view. He is not a member of such government, but is opposed to its very existence, and may of right subvert it whenever it may be in his power to do so. He holds no rights under it; but indeed all his natural and political rights are suspended, instead of being protected by it. The relation of government and subject does not exist between them; but their relations are those of hostility, and it is at all times his privilege and his duty to escape from his degradation at the first possible moment. I know that many people appear to think he ought not to take life in order to escape. I reply, it is his duty to himself, and to the world, and to his God, to escape. If any one, or more, attempt to prevent his escape, it is, nevertheless, his duty to throw off the chains of slavery if in his power, and if his oppressors themselves render it necessary for

him to slay them in order to regain his liberty, then it becomes his imperative duty to take their lives rather than to remain in bondage, and doom his offspring to interminable slavery. Such would have been the duty of Cinqua and his associates, had they been imported into Cuba, agreeably to the laws of Spain, and held as slaves. It would have been their duty to escape, even at the expense of the lives of those who attempted to prevent them from regaining their liberty. They would also have possessed a good and valid right to appropriate the ship and cargo to the purposes of aiding them in their return to Africa; and no human being would have had the just authority to take the ship or cargo out of their hands. Therefore, in whatever aspect this case is presented, it is perfectly clear that the Amistad did not enter our waters as a Spanish ship, but as an African ship, commanded and owned by Africans, who were entitled to our hospitality; and with whose liberty, or whose property, we had no right to interfere. The war between them and the subjects of Spain was a matter which did not concern us. We should have maintained the rights, and performed the duties, of a neutral people. If, however, we had transcended the rights of neutrality, and interfered with either party, such interference should certainly have been in behalf of the weak, and the oppressed, instead of the strong, and the oppressors. But I proceed to an examination of the second resolution, which declares in substance, that—

"A ship driven by stress of weather within the jurisdiction of a friendly power, carries with her the laws of the government under whose flag she sails; and that the persons on board, and their relations to each other, as established by such laws, are to be protected by the government within whose jurisdiction she seeks safety."

If this doctrine were correct, I have already shown that its application to the people on board the "Amistad" would have protected the negroes in their possession of the ship and cargo, and of Montez and Ruiz, as their prisoners. But the doctrine is erroneous. Suppose a slave ship from South Carolina, or any other sister State, were to enter the port of Boston from stress of weather: would the laws of Massachusetts lend their protection to the slave-dealers? If the slaves should rise in a body, and come on shore in pursuit of their freedom, would the officers of that State, or the people of Boston, be bound to pursue such fugitives through the streets of that city? Or if, in pursuit of freedom, they were to seek sanctuary in "Faneuil Hall"—that old cradle of liberty—would the good people of that patriotic Commonwealth seize them, and drag them forth, replace them on board the slave ships, and deliver them over to the tender mercies of piratical dealers in human flesh? If they were to lend their protection to the personal relations of those on board, as established by the laws of South Carolina, they must do this; yet I cannot believe that any slaveholding senator, who gave his vote in favor of these resolutions, would advocate such doctrine before the country; nor do I believe that any northern senator, who sat in silence when that vote was taken, would now publicly admit the correctness of such doctrines. Why, sir, all writers upon international law say that the jurisdiction of a government extends not merely over the land, but over all its rivers, straits, and harbors. They also agree that this jurisdiction extends some distance into the open sea. The only question that ever existed on this point was, as to the precise distance. They, however, all agree that common consent has fixed the distance at a "cannon's shot," or "three leagues from shore." These rivers, straits, harbors, and seas, to the distance of three leagues from shore, are regarded as much within the territory, and under the laws of this nation, as is the territory extending from the shore an equal distance inland. This is the case with all civilized nations and governments. It is the universal international law. He who comes within three leagues of England's shore, or into any of her rivers or straits, becomes subject to her laws. He who comes into the Potomac or Delaware, or Hudson's river, with his ship, puts himself and crew and ship within our jurisdiction; or, if he comes within three leagues of our shore, he does the same.

While at sea, he will submit to no search from any power; but when he comes near our shore, or within our jurisdiction, our revenue officers enter on board his ship, and make all necessary examination, in the same manner in which they examine our own vessels. Our health officers also enter on board, if they think necessary; and, in short, when a foreign ship once enters within our jurisdiction, she becomes subject to our laws, and remains so until she departs. While lying in our ports, or fastened to our wharves, her people enjoy the same rights and privileges, receive the same protection, and are subject to the same laws, with our own people. Nor is there any distinction made between those ships that enter for the purposes of commerce and those that enter through stress of weather. No such distinction is to be found in any author, or in the practice or regulations of any nation. But the object of this report is to induce the erroneous belief among the people, that a Spanish slave ship, if overtaken by a storm during her voyage, may put into the harbor of New York or of Boston, to repair, and that our laws would aid the slave-dealer in keeping his slaves in subjection until he departs. The report, after quoting these resolutions to which I have alluded, remarks: "Thus, wherever the flag goes the country is. In whatever distant seas or foreign ports, wherever the national flag floats, there is the nation." Sir, in pursuance of this doctrine, a Brazilian slave ship fastens to a wharf in New York. The people of that city go on board, find the decks stowed full of emaciated, starving Africans, suffering all the horrors incident upon that disgusting traffic. Those who appear too far gone to be regarded as profitable stock are thrown overboard while yet in full life; those who exhibit signs of discontent are flogged; and those who resist are shot down, or murdered with a Bowie knife or cutlass. This is all done at the wharf, or in plain view of the people. But the Brazilian flag floats at the mast. Brazil is there, and Brazilian laws are in force, and the people must permit these "much-abused slave-dealers" to be guided by their own sense of justice.

This, sir, is democratic doctrine, coming from a democratic committee, and is penned by a leading democratic member of this House. But I do not believe that the democrats of Boston, or of New York, will regard it as orthodox. I ask, on what authority does this report rely to support this extraordinary doctrine? It does not refer to Burlamaque, or Martin, or Wheaton, or any other writer upon international law; but upon the resolutions of the Senate to which I have alluded, and which were introduced and adopted for the purpose of supporting the claims of piratical slave-dealers, who professed to own the people on board the Enterprise. These resolutions are regarded by the committee as *law*, binding the freemen of New England and of the free States, to pay their money to Spanish slavers. Indeed, the committee, with great sincerity, appear to regard these declarations of thirty-three slaveholding members of the Senate, and "their allies," made for such a purpose, to be binding upon all civilized nations of the earth; they, however, remind the House that when the people on board the American slave-ship "Creole" took charge of that ship, (as they had the most clear and indisputable right to do, by the laws of God and of man,) and navigated her to Nassau, in the island of New Providence, and there gave up the ship to the captain, and went on shore in pursuit of their own happiness; the British authorities refused to comply with the principles of these resolutions, and utterly denied the doctrine adopted by the committee as the basis of their report. I have always considered the conduct of the British authorities in regard to those people who came into that port in charge of the Creole, as entirely wrong. The negroes in that case had as perfect a claim to the ship and cargo as the owners of any other ship that ever entered that port possessed. It was the duty of both officers and people, to have permitted them to remain in possession of said ship, and it was their privilege to use or sell her as they should deem proper. These people were forcibly taken beyond the jurisdiction of all slave laws; and while sailing upon the high seas, where they had as perfect right to their liberty as any man who now sits in this hall, and the slave merchants were endeavoring to carry them into slavery without law, and in violation of their natural rights. Thus a state of imperfect war existed between the slave-traders and the people whom they were thus attempting to rob of the rights with which their Creator had endowed them. Under these circumstances, they asserted and maintained their liberty. They took possession of the ship; and I think even the committee who have made this report will admit that there was neither legal nor moral obligation resting upon them to continue the voyage to New Orleans, and to take themselves into the slave-market there. They had been placed on board the ship by the law of *force:* they had been held in subjection by that law; and by the same law they became masters of the ship and cargo, and then possessed as good and as indisputable right to use the ship and cargo for their benefit, as the captors of a ship possess when taken in a state of perfect war. Nor had the people or the officers of Nassau any right to take said vessel from them, or to interfere between them and the former owners of the ship. Indeed, according to these resolutions, the people of that island were bound to maintain the personal relations which existed between the negroes and the whites. These were the relations of captors and prisoners; for the negroes held the slave-dealers in confinement as prisoners. It would, therefore, have been the duty of the authorities to see that they continued prisoners, and the sending of a guard on board to protect the captain and crew was entirely wrong, if the doctrine of these resolutions be correct. But I presume the committee did not intend to have this doctrine operate *against* slave-dealers, as it was put forth by the senators for the purpose of having effect in *favor* of those who deal in *slaves*. Yet the report refers to this case of the Creole, for the purpose of showing that the government of Great Britain refused to pay the slave-dealers for the freemen who spared their lives, instead of throwing them overboard; who treated them kindly, instead of carrying them to Africa, and selling them as slaves.

The committee appear to regard these resolutions as applicable to all cases of slave-trading; and that the refusal of the British ministry to hand over the gold to these speculators in human flesh, was a great outrage upon this law of nations, which originated in the other end of this Capitol in 1840. Well, sir, let Queen Victoria read this report; and let British ministers examine these resolutions; and if her Majesty don't tremble upon her throne, and Sir Robert Peel "fork over" at once, I shall think, with Falstaff, that the whole concern "are past praying for." And if the people of that kingdom don't immediately turn out their ministers, and select a new sovereign, I shall regard their audacity only equalled by that of the old sixteenth congressional district of Ohio, who re-elected their former representative to Congress when he had been driven from this hall by the vote of slaveholders and dough-faces for speaking truth and law upon this very case of the Creole.

But I return to these resolutions. The year preceding these transactions on board the Amistad, a Captain Wendall was on board his vessel (the name I have forgotten) in the port of Havana. The American flag was flying at his mast; and, of course, according to this report, "this nation was there." This captain was charged with having treated his mate with great inhumanity. He was taken from on board his ship and imprisoned under Spanish laws, and by Spanish authority; and was detained in prison for a long time. A full representation was made to Congress, but no member of this House then felt that it was an outrage upon our national rights; nor was the doctrine of these resolutions then thought of. Even the grave senators who adopted these resolutions were then silent. They did not at that time appear to have become conscious of the existence of those great principles which were subsequently called forth in favor of slave-merchants. Their lips were hermetically sealed when our citizens, in the pursuit of an honorable commerce, were rendered subject to Spanish laws. But they become eloquent when Spanish slave-traders are rendered subject to our laws. Sir, the reasons why members of this House and of the Senate were then silent in regard to the doctrines now asserted by the committee was, that no such doctrines then existed, nor do they exist now; and I cannot vote away the public money to publish errors of this kind, to be sent forth to mislead the public mind in favor of slave-trading.

[The motion was then laid on the table without further debate.]

SPEECH OF MR. HAMLIN,

OF MAINE.

In the House of Representatives, April 15, 1844—On the army appropriation bill, and in reply to Mr. MORSE upon the professions, practices, and principles of the federal party.

Mr. HAMLIN said it was of but little importance by what names things were called. It was far more desirable and necessary that the facts involved in the questions upon which they were called to deliberate and act, should be fully and correctly understood. He cared not, so far as the simple fact was concerned, by what name the government under which we lived was called. It might be called democratic,

Congressional Globe, House of Representatives, 30th Congress, 1st Session, Pages 1126 through 1130, The Amistad Case--Mr. J. A. Rockwell August 8, 1848

It may be asked, then, why, in the organization of the Territories, apply the proviso? I would do it to make "assurance doubly sure." The slave interest is not yet satiated with its encroachments upon human rights. As it ever has been, it still is, ruled by the predominating spirit of gain, and victory after victory has been won, until slavery can boast of a larger accession of territory to her domain than the whole area of the original thirteen States of the Union. The spirit of the Revolution is forgotten. What was then deemed an evil and a curse to the country is now accounted a virtue. Texas was added for the express purpose of enlarging her borders, and the extensive territory recently acquired by military power and through rivers of blood, saying nothing of the millions of money lost in the contest, is but a slave victory, and now demanded as her trophy. And, too, a new doctrine has risen up—new discoveries are made in the Constitution—that Congress has no power to legislate about slavery in the Territories, because the Constitution, by construction protects it.

A compromise is got up—I will not say in bad faith—and the result is, that the Constitution, just now like the "clay in the hands of the potter," should be turned over to the Supreme Court to make a vessel of honor or dishonor as the judges should think proper. Now, it strikes me that Congress may do it quite as well.

The power to legislate for the Territories is in Congress. If to be found nowhere else, it is found in the incidental power connected with the possession and ownership of the property; but there is positive authority found in the "power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States."

Under such circumstances, it will not be deemed strange, holding the views I do, to insist, that when the new Territories shall be organized, a proviso like the ordinance of 1787 shall be inserted in the bills. This would quiet the agitation of the question, and save the Supreme Court from the exercise of a power which clearly belongs to, and comes within the range of, our legislative duties.

I would ask the South, why throw the firebrand of discord again before the country? You know, the country knows, that the extension of slavery beyond its original limits was not thought of when the Constitution was adopted. Then its entire abrogation was anticipated before this day, and the clause relating to the foreign slave trade was designed to aid in such a consummation.

[The Chairman's hammer here indicated the close of the hour. Mr. PUTNAM intended to review the doctrine recently sprung up as to the Territories, that the General Government is but the *trustee* of the States as to them, and that Congress, therefore, has no right to exclude the South from an equal participation with the North in the enjoyment of their property. This doctrine, however, is too fallacious to need refutation.]

INTERNAL IMPROVEMENTS.

REMARKS OF MR. O. B. FICKLIN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

August, 8, 1848,

In reply to Mr. MULLIN, of New York, on the subject of granting alternate sections of land to the States for the purposes of Internal Improvement.

Mr. FICKLIN said:

Mr. CHAIRMAN: I had not intended to mingle at all in this debate, but the attack of the honorable member from New York, [Mr. MULLIN,] on bills, generally, granting lands to the States for railroad purposes, and the Illinois bill in particular, cannot but elicit a reply. He runs the parallel between the old and the new States, in a manner which does great injustice to the latter.

New York has had her harbors and rivers improved, by direct appropriations of money from the national treasury. The honorable member speaks of the large receipts into the treasury at the New York custom-house; but what novice does not know that it is mainly the South and the West that contribute to the augmentation of that sum? Strike from New York city all of the commerce without the limits of that State, and it would dwarf her custom-house receipts beyond measure. It is not, however, to this point that I care to speak; for I rejoice at the growth and prosperity of New York city. New York and Illinois are not strangers to each other; their interests are not antagonistic by any means, and the people of the two States mutually feel an abiding interest in the prosperity of each other.

My friend spoke of the efforts of New York in constructing her great canal to open a communication with the West. This great work was not one of benevolence, purely; it was not gone into solely from motives of disinterested love for the West. No, sir; the project was conceived by a wise head—one having at heart the interests of the State of New York; and fully, indeed, have the brightest hopes of De Witt Clinton been realized. New York and the great West mutually share the profits of the agricultural products, and the articles of goods, wares, and merchandise transported on that canal; and the same will be true of the contemplated railroads in Illinois when completed.

Does not the honorable member know that the great State of Pennsylvania is now making every exertion to complete a continuous line of railroad from Pittsburg to Philadelphia, with a view to share more largely with New York the travel and commerce of the West?

The honorable member may rest assured that the city of New York, and also the State, cannot but feel the utmost interest in the success of this enterprise. His immediate constituents may have an unfounded prejudice against these works, or may not have looked into the question; but I am satisfied that in other portions of New York they see great advantages, present and promissory, in the completion of railroads in Illinois.

My friend has signified his opinion that the routes designated in the bill are not important, as they do not connect important points. In this he is even more at fault than in his other positions. The map is the best argument that can be presented to correct this heresy.

Chicago is on Lake Michigan, whose waves are at all seasons ready to bear vessels freighted with the commerce of the country. Cairo, at the junction of the Ohio and Mississippi, is so far south as seldom to be affected by the ice of either of those streams. Construct this road, and New York and every New England State will use it most extensively for purposes of travel and transportation.

Next in importance to this is a railroad from Cincinnati to Alton or St. Louis. This road, if completed, would pay, beyond all doubt, a handsome dividend upon the cost of construction.

Nor has Illinois shared largely in grants of land heretofore as compared with Ohio and Indiana. Each one of those States has received some two, three, or four times as many lands as Illinois; but they have not received too much, but too little, most decidedly.

It is idle, it seems to me, for this Government to expect to hold on to these public lands in the States with a view to realize money from them.

This Government should seriously reflect upon the subject of ridding itself of the public lands, by granting them to actual settlers free of cost, or by granting them to the States in which they lie, that they may ultimately be granted to actual settlers.

The doctrine of giving to every man a home who is too poor to buy one, is beginning to be advocated in high places, and by very many persons even in the old States; and I cannot doubt its rapid spread and ultimate success.

Those who differ with me, and are in favor of a general system of internal improvements, by appropriations of money from the United States treasury, must see, in our present public debt, a very great obstacle to money appropriations for internal improvements. Surely, we would not think of borrowing money to prosecute works of that sort. With the alternate sections of public land, these works may be successfully prosecuted to completion; and I trust that the Government will so dispose of the public domain as to impart substantial benefits to the States and the people. So far as my vote is concerned, it shall be most cheerfully given in favor of granting lands to each improvement that promises to be valuable when completed.

THE AMISTAD CASE.

SPEECH OF MR. J. A. ROCKWELL,

OF CONNECTICUT,

IN THE HOUSE OF REPRESENTATIVES,

August 8, 1848.

The House being in Committee of the Whole on the state of the Union—

Mr. ROCKWELL said:

Mr. CHAIRMAN: In pursuance of the recommendation of the President of the United States, the Senate have added to the civil and diplomatic appropriation bill an amendment providing for the payment to the Spanish Government of fifty thousand dollars for the benefit of the owners of the schooner Amistad and the negroes on board. As there will be no time, at this late period of the session, to debate the important questions arising out of this amendment, when it comes to-morrow before the House, I avail myself of the present opportunity to recall to the recollection of members the facts in relation to this demand.

The claim is not a new one. It has been often before this House, and has always been rejected. During the last Congress it found but some thirty or forty votes in its favor. The claim is not only untenable, but most preposterous; and the recommendation of its payment by the President is strange indeed. When stripped of all its covering, it is neither more nor less than a demand that the United States shall pay for the value of persons as slaves who never were slaves—who not only were never shown to be slaves by any proof whatever, but were proved positively to be, and always to have been, free—who were shown to have been so to the satisfaction of the District, Circuit, and Supreme Court of the United States successively, and by those tribunals declared to be so, in the most solemn manner, in judicial proceedings, to which the pretended owners of these slaves were parties, appearing and claiming them as their property; and not only so, but the District Attorney of the United States, appearing on behalf of the Spanish minister and nation, and interposing before the court these claims and defences, to which the Spanish Government and these Spanish subjects deemed themselves entitled.

Now, sir, may it not well strike us with astonishment, that a claim of this bold character should be made upon the Government at all; and still more, that the Executive should encourage any such claim, and have the effrontery to urge upon the representatives of the people in this House the payment of it? The facts are briefly these—I take them from the statement given by the judge who gave the opinion of the Supreme Court in this case, in the 15th volume of Peters' Reports:

On the 26th August, 1839, Lieutenant Gedney, of the United States brig Washington, discovered the schooner Amistad at anchor on the high seas, a distance of half a mile from the shore of Long Island. This vessel, it subsequently appeared, had, on the 27th June, 1839, being the property of Spanish subjects, cleared from the port of Havana, in Cuba, for Puerto Principe, in the same island. On board of the schooner were the Captain, Ransom Ferrer, and Jose Ruiz and Pedro Montez, all Spanish subjects. Ruiz had with him forty-nine negroes, claimed by him as slaves. Montez had four negroes, claimed by him to be his own property. There was a certain pass or document in the possession of Ruiz and Montez, to which I shall have occasion to refer. On the voyage, and before the arrival of the vessel at her port of destination, the negroes rose, killed the captain, and took possession of the schooner. The vessel and negroes, with the other persons on board, were seized by Lieutenant Gedney, brought into the district of Connecticut, and there libelled for salvage in the district court of the United States. To a portion of the proceedings which were then had I do not deem it necessary to refer, as they have but a remote, if any, bearing on the discussion now before us.

On the 18th of September, Ruiz and Montez filed claims and libels, in which they asserted their ownership of the negroes as their slaves, and to certain parts of the cargo, and prayed that the same might be delivered to them, or to the representatives of her Catholic Majesty, as might be most proper.

Let us for a moment examine these libels and claims of Ruiz and Montez. They filed separate libels, the forms of which are precisely similar. These are signed by them, by their attorney, and by their distinguished counsel, one of whom was our late most able minister to Russia. The proceedings are in the regular technical forms. The libels are addressed "To the honorable Andrew T. Judson, Esq., judge of the district court of said district." They commence as follows: "The libel 'and complaint of Jose Ruiz, of Puerto Principe, 'in the Island of Cuba, a subject of her Majesty 'the Queen of Spain, humbly shows, that on the '28th of June last, this libellant embarked on board 'the Spanish schooner Amistad, whereof," &c., "the following goods and merchandise and prop-'erty belonging to and owned by this libellant, 'viz:"—giving a detailed account of certain articles of property, describing the whole as of the value of three thousand five hundred dollars; "and like-'wise forty-nine black male slaves, named and 'known in Havana aforesaid, as follows:"—giving Spanish names—"of whom several have died, as 'this deponent is informed and believes; and the 'survivors, this libellant is informed, are known 'at present by the names following," &c.; "which 'said slaves were and are now the property of 'this libellant, and are of the value of twenty-two 'thousand dollars." The libel then proceeds to detail the various occurrences: that the negroes murdered the captain and cook, "took possession of the aforesaid schooner," &c. "And this libel-'lant further shows, that all the aforesaid slaves 'were by him legally purchased and owned in 'Havana aforesaid, where slavery is tolerated and 'allowed by law, as in all parts of said Island of 'Cuba. And this libellant humbly insists that the 'aforesaid slaves, the property of this libellant, 'and his other property above specified, ought, by 'the laws and usages of nations and of these Uni-'ted States of America, *and according to the treaties 'between Spain and these United States*, to be restored 'to this libellant without diminution and entire. 'Wherefore your libellant prays that the said Ged-'ney, Mead, and others, belonging to said brig 'Washington, may be subjected to answer this 'libel, with costs; and that process of attachment 'and proceedings may be issued against the afore-'said slaves and other property of this libellant, 'according to law, *all this being within the jurisdic-'tion of this honorable court*; and that, after proper 'process, *this honorable court shall decree* the afore-'said slaves and other property of this libellant *to 'be delivered to him or to the representatives of her 'Catholic Majesty* in these United States, as may 'be most proper in the premises."

I pause here for a moment to ask the attention of the House to the fact, that in the most formal manner Ruiz and Montez submitted their claims to the adjudication of this court, sitting as a court of admiralty; expressly affirmed the jurisdiction of the court; asked for its process and decree; submitted to the court the question of their title to those negroes as slaves under the Spanish law, the law of nations, and the treaties between Spain and the United States, and the delivery of them to themselves or to the representatives of the Spanish Government. It also appears, from the proceedings, that they not only signed these proceedings personally, and by their counsel, but *made oath* before the clerk of the court to the truth of the allegations set forth in their libels.

On the filing of each of these libels, the district court ordered an entry to be made, allowing them, and directing the time of trial, and order a warrant of seizure and other process to issue. This warrant is executed by the marshal, who returns the seizure of the property, "and also the said slaves." The negroes, in the first instance, file their plea to the jurisdiction, which is subsequently withdrawn, and they then make a formal answer, amongst others, to the libels of Ruiz and Montez. They allege that they, and each of them, were natives of Africa, and born free, and ever since have been, and still of right are and ought to be free, and not slaves; that they were never domiciled in the Island of Cuba, or in the dominions of the Queen of Spain, or subject to the laws thereof; that they were unlawfully kidnapped, in the month of April, 1839, in the land of their nativity, &c.; giving a detailed account of the facts as claimed by them, and putting directly in issue the claims of Ruiz and Montez and the Spanish Government, through the district attorney. In January, 1840, the trial was had, before the district court, of this important case. In relation to the parties who appeared, the following is the record of the court: "And at said 'term of said district court, holden at New Haven, 'in said district, on the 7th day of January, A. D. '1840, the following named libellants and claim-'ants appear in court and pursue their several libels 'and claims respectively, to wit: Thomas R. Ged-'ney and others; Henry Green and others; the 'United States, by their district attorney; the said 'vice-consul of Spain, and the minister of Spain, 'through the United States district attorney; Jose 'Antonio Tellincas, and the house of Aspa and 'Laca. Don Pedro Montez and Jose Ruiz do not 'come in person or by counsel, *but their libels and 'claims respectively are pursued by the Spanish min-'ister, the same being merged in his claims.* The 'said Cinques and others, Africans, pursue their 'claim and answer, filed as aforesaid."

In the judgment of the court, which was pronounced after a full hearing and a most labored and able trial of the cause, the court say: "And 'whereas the duly accredited minister of Spain, 'resident in the United States, hath, in behalf of 'the Government of Spain for the owners of said 'schooner and the residue of said goods, claimed 'that the same be returned to that Government 'for the said owners, (they being Spanish sub-'jects,) under the provisions of the treaty subsist-'ing between the United States and Spain," &c. After a long recital and a full finding in relation to the other points, the court proceed: "This court, 'having fully heard the parties appearing with their 'proofs, do find, that the respondents, severally 'answering as aforesaid, are, each of them, na-'tives of Africa, and were born free, and ever since 'have been and still are free, and not slaves, as 'is in said several libels, claims, or representations, 'alleged or surmised; that they never were domi-'ciled in the Island of Cuba, or the dominions of 'the Queen of Spain, or subject to the laws 'thereof; that they were severally kidnapped in 'their native country, and, in violation of their 'own rights, and the laws of Spain prohibiting 'the African slave trade, imported into the Island 'of Cuba, about the 12th June, 1839, and were 'there unlawfully held, and transferred to the said 'Ruiz and Montez, respectively; that the said 'respondents were, within fifteen days after their 'arrival at Havana aforesaid, by said Ruiz and 'Montez, put on board said schooner Amistad," &c. "That, at the time when the said Cinques, 'and others here making answer, were imported 'from Africa into the dominions of Spain, there 'was a law of Spain prohibiting such importations, 'declaring the persons so imported to be free; that 'the said law was in force when the said claimants 'took the possession of the said Africans and put 'them on board said schooner, and that the same 'hath ever since been in force," &c. "Where-'upon, the said claim of the minister of Spain, as 'set forth in the two libels filed in the name of the 'United States, by the said district attorney, for 'and in behalf of the Government of Spain and her 'subjects, so far as the same relate to the said 'Africans named in said claim, be dismissed." "And after the said decree is pronounced, the said 'United States, claiming, as aforesaid, in pursu-'ance of a demand made upon them by the duly 'accredited minister of her Catholic Majesty the 'Queen of Spain to the United States, move an 'appeal," &c.

The counsel for the negroes then prayed that the appeal should be disallowed, because (they insisted) the United States had never claimed to own them as slaves, or to have any interest in them, and that they had no right, under the laws of nations, or by the Constitution or laws of the United States, to appear in the court, and institute proceedings on the part of the subjects of the Queen of Spain. The court, however, overruled the exception, and the record of the circuit court thus proceeds: "And after the said decree is pro-'nounced, the said United States, claiming as afore-'said, in pursuance of a demand made upon them 'by the duly accredited minister of her Catholic 'Majesty the Queen of Spain to the United States, 'move an appeal from the whole and every part of 'said decree of this court, affirming said decree of 'said district court, as aforesaid, to the Supreme 'Court of the United States, to be holden," &c.; "and it is allowed."

These decisions of the district and circuit court of the United States were sustained fully by the Supreme Court,* with only one judge dissenting, (Judge Baldwin, of Pennsylvania,) who did not, however, deliver any dissenting opinion. The court expressly, and in terms, decided that the negroes were not slaves. They say: "It is plain beyond 'controversy, if we examine the evidence, that 'these negroes never were the lawful slaves of 'Ruiz and Montez, or of any other Spanish sub-'jects."

The question, also, of the liability of the United States to deliver up those negroes, in pursuance of the treaties with Spain, was also fully argued and directly decided by the court; and they not only directly decide, but they clearly show, that no such right exists under the treaties with Spain.

Mr. Chairman, I have considered this branch of this question quite at length, because, in my view, it ought to settle, and does settle the question, as well in respect to our own citizens, as to any foreign citizens or subjects.

The effect of a judicial decision upon matters brought directly in issue, and the binding and conclusive character of such judgments, are matters as well of general as of local or municipal law. They are recognized throughout the civilized world between man and man. It is the law of honesty and common sense, as well as the law of the land, and of every civilized land, that where parties submit their controversies to the decision of a tribunal of competent jurisdiction, they are bound by that decision; they cannot again open the question; they must submit to the law, as pronounced by the proper tribunals; and their decision as to the facts from the testimony cannot be indirectly assailed. The principle applies as well to the construction of treaties, by the court authorized to give such construction, as to the decision of any other question of international or municipal law.

Was there ever, sir, a case where this most sound and salutary principle so properly applied, or where the excuse was less for attempting to assail that principle? The professed owners of these slaves assert their rights to them as property: the Africans deny any such right, and claim that by the Spanish law they are and always have been free. The court decide the claim in favor of the negroes. These owners do not indeed finally pursue the claim originally filed in their own names; but these libels are not withdrawn, but pursued by the United States authorities, acting in behalf of the Spanish minister and the Spanish Government. But if the United States, or the Spanish minister, or the Spanish Government, or Ruiz and Montez were not in form parties on the record, it is a well known principle the world over, that the adjudications *in rem* of a court of admiralty are conclusive upon all the world. The claim of the Spanish minister is on behalf of the pretended owners of these negroes. His object is, and the purpose of the appropriation of $50,000, to pay to them the amount due for these negro men as slaves. The answer to this demand is—Sir, that matter has been adjudicated by the highest court of the land. Messrs. Ruiz and Montez submitted their demands to that tribunal, and the court decided against their claims. The Spanish minister submitted—you, sir, yourself submitted this matter to the adjudication of the courts, and they decided against you. In order to give more force and effect to their claims, and secure to you all the rights to which your sovereign or her subjects were entitled under the treaty, the United States Government interposed—the Administration threw their weight into the scales on the side of the Spanish minister and Spanish subjects, and the district attorney of the United States was directed to prosecute the claims of these Spanish subjects and Spanish minister. The whole power and influence of the Government was arrayed on your side. The United States appeared in her own courts in *your* behalf, but her own courts decided against her.

Can there be, Mr. Chairman, a more preposterous claim? Was there ever so great an absurdity as for Ruiz and Montez, or anybody on their behalf, to call upon our Government to pay this sum

* For the opinion of the Supreme Court of the United States, in the case of the United States *vs.* the Amistad, see 15th vol. Peters's Reports, from page 587 to page 597 inclusive.

under this state of facts, except the absurd conduct of our own President in recommending its payment?

I have, sir, thus far considered the claim as one which had been settled, and finally settled, by the courts of law, between the parties interested, and one in relation to which it did not become us to look behind the record; and settled, too, on principles recognized as well in Spain as in the United States, and all other portions of the civilized globe.

If, however, sir, you look into the testimony in this case, it will be found that no court could by any possibility have come to any other conclusion. I have this testimony all before me, but cannot go at length into it. It is, however, conclusive to show that these men were never slaves, and that Ruiz and Montez had not, by the Spanish law, any right whatever to their possession.

Mr. C. J. INGERSOLL. There is no proof of that fact.

Mr. ROCKWELL. So strong was the proof of that fact, that the United States district attorney abandoned the point, and in open court so admitted, and it was entered on the record. This record is as follows: "And thereupon it was admitted in 'open court, by the district attorney of the Uni-'ted States for said district, that the several re-'spondents *are native Africans*, and recently im-'ported into the Island of Cuba, as alleged in 'their answers to the libels of the said attorney."

Mr. INGERSOLL. He admitted it without sufficient proof.

Mr. ROCKWELL. After the undue zeal manifested by the attorney for the United States for the transfer of these unfortunate persons to the Spanish owners, it is not to be supposed that the prosecuting officer would, without proof, abandon this important point in his case. But we have, in addition to this, the opinion of the district court upon the evidence before them, to the same effect, and that of the Supreme Court of the United States; and I beg leave, most respectfully, to say, that the opinion of that officer on the testimony, and of the Supreme Court, (constituted as it is,) would outweigh the opinion of twenty such as the gentleman from Pennsylvania, however individually respectable.

Mr. INGERSOLL. The opinion of the Supreme Court was based upon the admission of the district attorney, and not upon the evidence in the case.

Mr. ROCKWELL. Not at all, Mr. Chairman. The gentleman is entirely mistaken. The court had all the evidence before them. All the evidence in the case was reduced to writing, and came with the other papers before the Supreme Court. The court say, expressly: "It is plain, 'beyond controversy, *if we examine the evidence*, 'that these negroes were never the lawful slaves of 'Ruiz or Montez, or of any other Spanish sub-'jects. They were natives of Africa, and were 'kidnapped there, and were unlawfully transported 'to Cuba, in violation of the laws and treaties of 'Spain, and the most solemn edicts and declara-'tions of that Government,"&c. Ruiz and Montez are proved to have made the pretended purchase of these negroes with a full knowledge of all the circumstances. And *so cogent and irresistible is the evidence* in this respect, that the district attorney has admitted in open court, upon the record, that these negroes were native Africans, and recently imported into Cuba, as alleged in their answers to the libels in the case. The supposed proprietary interest of Ruiz and Montez is completely displaced, if we are at liberty *to look at the evidence*, or the admission of the district attorney.

The gentleman from Pennsylvania must have forgotten the testimony in this case, or his prejudices must have grossly misled him, in persisting, as I perceive that he still does, in denying the evidence on this point. I am aware that the honorable member once wrote a report on this subject, which I forbear to characterize as I think it deserves; but I am astonished at the declaration of the gentleman. It only furnishes additional proof of what we have often seen on this floor, that there is a certain class of northern men in this House who are more prejudiced in favor of southern institutions—of southern slavery—more hostile to the negro race, and more opposed to freedom, than the more elevated and intelligent southern gentlemen. Every southern member of the Supreme Court concurred in the opinion which I have quoted. They rose above their prejudices, if they had any; neither sectional nor party feelings prevented their deciding the case upon its merits—of finding the facts according to the evidence, and of administering justice according to law.

As, however, the gentleman from Pennsylvania seems still to think that there is no evidence to show these men not to be slaves, I will refer to a portion of the evidence before the court. Richard R. Madden, who then was, and for a year previous had been, a British commissioner, and had resided in Havana for three years previous to that time, states that the duties of his office and his avocation led him to become well acquainted with Africans recently imported from Africa; that he had seen and had had in his charge many hundreds of them. He had seen the Africans in the custody of the marshal, &c. "I have examined them," he said, "and observed their language, appear-'ance, and manners; and I have no doubt of their 'having been very recently brought from Africa." He repeated to one of them a Mohammedan form of prayer in the Arabic language, which the man immediately recognized, and repeated a few words after him.

On being inquired of by the district attorney if the native language of the Africans was not often continued for a long time on certain plantations? he replied: "I should say, the very reverse is the 'fact. It has been to me a matter of astonishment 'at the shortness of time in which the language of 'the negroes is disused, and the Spanish language 'adopted and acquired. I speak this from a very 'intimate knowledge of the negroes in Cuba, from 'frequent visits to plantations and journeys in the 'interior; and on this subject I think I can say my 'knowledge is as full as any person's can be."

The testimony of Mr. Madden is very full and satisfactory on this subject.

Mr. C. J. INGERSOLL. He is a British abolitionist.

Mr. ROCKWELL. He is, I presume, a British subject, because he says so: whether he is an abolitionist or not, I know not; but from anything I know or believe, I suppose him to be not only as credible, but as intelligent a person as either the honorable member or myself.

But there is the testimony of Dwight P. Janes, who was on board the cutter. He says: "Ruiz 'went into the cabin, and I inquired of him if any 'could speak English? His answer was, None 'but one—he a few words: and then I inquired if 'they could speak Spanish? He said, no; they 'were just from Africa."

Haley testifies to the same conversations.

Professor Josiah W. Gibbs, a gentleman learned in languages, made out a vocabulary of the Mendi language from James Covey, and states that he was able by means of it to converse with twenty or thirty of these Africans. He also says that they cannot speak the Spanish language. "From the language and manners of these negroes," he says, "I have formed a decided opinion that they are native Africans, and recently from Africa."

The testimony of James Covey, a colored man, who was born in the Mendi country, and had left there seven and a half years before, and had served aboard a British man-of-war, and been in this country for six months, testified to the fact of their being recently from Africa. They understood each other, and conversed freely together in the Mendi language. The scene between these persons, as described to me by a number of eye-witnesses, was such as not only in the highest degree to interest all present, but furnished the most conclusive evidence of the fact of their being recently from their native country. Their delight was unbounded at finding some one who could speak in their own language.

There are other witnesses whose testimony is to the same effect, but I will not consume the time of the House by going more into detail.

What is the testimony on the other side of this question? The burden of proof rested on the persons claiming those negroes as slaves. The presumption is in favor of freedom, and they were required to substantiate this most important fact. There is no evidence whatever to show such to be the fact. The only proof presented is a document in the nature of a passport, to which the printed name of the Captain-general was attached. The form, also, is printed. It grants permission to carry forty-nine black ladinos, and proceeds to give the Spanish names of forty-nine persons, and describes them as the property of Dr. José Ruiz, to be carried to Puerto Principe by sea, &c. These passports give no description of the persons; and it is not shown that the Spanish names in the passport were ever applied to these negroes. So that, not only does this document afford no proof whatever, or very slight indeed, that these men were slaves, even if correctly described, but there is no evidence that the document was designed to apply to or describe these men at all. But giving to this paper all the weight which is claimed for it, it certainly furnishes the very slightest presumptive evidence. But, Mr. Chairman, there is this other important fact, to which I ask the attention of the committee. From that time to the present, the Spanish Government has never furnished any proof whatever that these men were slaves, or to show that the facts which are found by the court to be true are no facts at all. The first of these trials was had eight or nine years since, and yet the Spanish minister and Spanish Government have brought forward nothing, positively nothing, to shake the decisions of the courts of which they complain.

But, sir, I would inquire, what does the Spanish minister ask of the Government of the United States? What have the United States done, or omitted to do? Is the very bold claim made of the United States, that they should pay to two Spanish subjects the sum of $50,000, because the courts of the United States, including the Supreme Court, have decided their case, as they think, erroneously? If such a principle should be established, it ought to apply to the cases of American citizens as well as Spanish subjects, and it would lead to somewhat expensive and somewhat disgraceful results.

I have said enough, sir, I think, to show that the claim of the Spanish nation upon the United States is utterly without foundation; that there is not a decent pretence in its favor; that it is so groundless that it is ridiculous.

But what shall we say, sir, of the course of the Administration, now and heretofore, on this subject? What apology can be given for urging upon Congress such a claim as this? They not only yield to an unfounded demand, but they outrage, by so doing, the sentiments of a large portion of the community. It is quite as much as many can do, when the Government has by treaty become trustee for paying out a fund for those whose negroes were captured, and the amount for which was received from a foreign nation, to execute this trust; but when the demand is to pay for negroes as slaves who were never slaves, and when there was no proof whatever that they ever were slaves, and when the highest court in the land have decided that they were free, such recommendation of the President is most audacious, if not insulting. The course, however, heretofore pursued in relation to these Amistad negroes is far more exceptionable.

When the fact of the arrival of the Amistad at New London became known to the Spanish minister, he addressed a letter to Mr. Forsyth, in which he claimed, among other things, "that the 'negroes should be conveyed to Havana, or be 'placed at the disposal of the proper authorities in 'that part of her Majesty's dominions, in order to 'their being tried by the Spanish laws, which they 'have violated," &c. This claim was made principally under the 9th article of the treaty of 1795, which provides "that all ships and *merchandise*, '*of what nation soever, which shall be rescued out of* '*the hands of any pirates* or robbers on the high 'seas, shall be brought into some port of either 'State, and shall be delivered to the custody of 'the officers of that port, in order to be taken care 'of, and restored entire to the true proprietor, as 'soon as due and sufficient proof shall be made 'concerning the property thereof."

This correspondence continues between the Spanish minister and Mr. Forsyth from time to time. On the 30th December, 1839, the Chevalier de Argaiz, the then Spanish minister, writes to Mr. Forsyth, and, after referring to a conversation between them, and stating that the negroes had declared before the court of Connecticut that they were not slaves, and that the best means of testing the truth of their statement was to bring them

before the courts of Havana, he adds: "Being, at 'the same time, desirous to free the Government 'of the United States from the trouble of keeping 'said negroes in prison, I venture to request of 'you to prevail upon the President to allow to the 'Government of her Catholic Majesty the assist-'ance which it asks, under the present circum-'stances, from that of the United States, by placing 'the negroes found on board of the said schooner, 'and claimed by this legation, at the disposition 'of the Captain-General of the Island of Cuba, 'transporting them thither in a ship belonging to 'the United States."

It is quite evident what is the meaning of this proposition, and it as evidently grew out of a conversation between the Spanish minister and Secretary of State. The Executive was asked to *volunteer* to send a Government vessel to transport these negroes, by force, to Cuba; and one of the considerations urged by the Spanish minister is, "that it would be difficult to find a vessel of the 'United States willing to take charge of these ne-'groes, and to transport them to Havana." And as no vessel could be obtained for love or money, to carry out this nefarious plan of sending these freemen to Cuba to be made slaves, or to be executed for killing their kidnappers, the Government was asked to furnish its own navy, and its generous officers and seamen. What was the answer to this proposition to use a Government vessel in this slave trade, of a new and aggravated kind? The Secretary of State (Mr. Forsyth) replied: "*Having laid your note before the President, I am 'instructed* to state to you, that, in the event of the 'decision of the circuit court of Connecticut, in the 'case referred to, being such as anticipated, the 'schooner Amistad, which you represent as not 'being in a condition to go to sea, will, with such 'goods as were found on board, be delivered to 'any persons whom you may designate; and that, 'animated by that spirit of accommodation and 'reciprocal convenience which the President is 'anxious should ever characterize the relations 'between the two Governments, he shall cause the 'necessary orders to be given for a vessel of the 'United States to be held in readiness to receive 'the negroes and convey them to Cuba, with in-'structions to the commander to deliver them to 'the Captain-General of the island. *The President 'has been induced the more readily to accede to your 'request in this particular, on account of one of the 'leading motives which prompted you to make it:* THAT 'THE NEGROES, HAVING ASSERTED BEFORE THE 'COURT OF CONNECTICUT THAT THEY ARE NOT 'SLAVES, MAY HAVE AN OPPORTUNITY OF PROVING 'THE TRUTH OF THEIR ALLEGATION BEFORE THE 'PROPER TRIBUNALS OF THE ISLAND OF CUBA, *by 'whose laws alone, taken in connection with circum-'stances occurring before the arrival of the negroes in 'the United States, the question of their condition may 'be legally decided.*"

If there is anything to make this detestable scheme more revolting, it is the pretended, hypocritical desire to afford these men the opportunity of establishing, *in Cuba*, their rights as freemen. I know not, sir, that there is to be found, in any civilized government, during the present century, a more outrageous act than was here designed and agreed to, and prepared to be executed, on the contingency referred to.

I am asked, sir, by some around me, the name of this President of the United States who had such a tender regard for the liberty and lives of those unfortunate men. It was Martin Van Buren, who is, to-morrow, to be nominated as the candidate for the free-soil party at Buffalo!

There seemed to be a strife among the officers of the Government who should show the greatest zeal against the poor negroes. Mr. Holabird, the United States district attorney for Connecticut, in a letter of the 9th September, 1839, says: "I would 'respectfully inquire, sir, whether there are no 'treaty stipulations with the Government of Spain, 'that would authorize our Government to deliver 'them up to the Spanish authorities; and, if so, 'whether it could be done before the court sits?"

It will be recollected, that this suggestion was made after a libel had been filed, and process had issued and been served, and the Africans were in the custody of the marshal. It seems, however, that this strange proposition was not repelled with the scorn or contempt which it deserved.

Under date of September 11, Mr. Forsyth replied, saying: "Mr. Calderon's application will 'be immediately transmitted to the President for 'his decision upon it, with which you shall be 'made acquainted without unnecessary delay. *In 'the mean time, you will take care that no proceed-'ing of your circuit court, or of any other judicial 'tribunal, places the vessel, cargo, or slaves, beyond 'the control of the Federal Executive.*"

It seems that with this zeal to secure the destruction of those poor negroes, no measures were too violent or audacious. This executive officer instructs his subordinate to *take care that no proceeding* of the court should interfere with the Federal Executive. How this *care* was to be taken, what measures the attorney was to use to control the judicial department of the Government, are not pointed out; nor does it appear what course the attorney pursued to perfect this hopeful scheme.

On the 5th November, 1839, Mr. Holabird writes again to Mr. Forsyth, and says: "As a final de-'cision is to be had on the third Tuesday of instant 'November, allow me to suggest, that if there is 'any action to be had on the part of the Govern-'ment, with reference to the blacks, it is important 'that we be informed officially *or unofficially* before 'the session of the court."

Whether any, and to what extent, *unofficial* communications passed between the President and Secretary of State and Mr. Holabird, in furthering this conspiracy, will probably never be known.

On the 6th January, 1840, Mr. Forsyth writes to Mr. Holabird, stating that the President had, agreeably to his suggestion, taken in connection with the request of the Spanish minister, ordered a vessel to be in readiness to receive the negroes from the custody of the marshal as soon as their delivery should have been ordered by the court.

On the 11th January, 1840, Mr. Holabird again writes to Mr. Forsyth, and makes the following remarkable inquiry: "*The marshal wishes me to 'inquire whether, in the event of a decree by the court 'requiring him to release the negroes, or in case of an 'appeal by the adverse party, it is expected the Execu-'tive warrant will be executed? and requests your 'instructions on that subject.*"

Whether this monstrous suggestion of the district attorney was the result of official or unofficial communications from the department, does not appear. Certain it is, that he considered that he was carrying out the views and wishes of the Administration by the suggestions which he was making. The inquiry simply was, whether if the court decided that, as they claimed, the negroes were free, and that they should be discharged, the Government should, in the face of such decision, and in violation of all law, order them forcibly to be removed to Cuba, on board of a government vessel, voluntered for that service; or, if the decision were against the negroes, and they should enter an appeal, whether they should be removed in spite of such appeal, and deprived of the opportunity of pursuing their claim for justice before the highest court of the land.

This proposition was too outrageous and barefaced even for the President and Secretary of State. Mr. Forsyth replies on the 12th January, 1840: "With reference to the inquiry from the marshal, 'to which you allude, I have to state, by the di-'rection of the President, that, if the decision of 'the court is such as is anticipated, the order of 'the President is to be carried into execution, *un-'less an appeal shall actually have been interposed. 'You are not to take for granted that it will be inter-'posed.*"

I know not, sir, with what language to characterize this transaction. This studied, unrelenting, unceasing hostility to those poor Africans, on the part of the President, Secretary of State, and district attorney—this nefarious and detestable scheme for the wholesale kidnapping of those poor men, and eventual murder, under the forms of law, in Cuba,—are worthy of the strongest expressions of detestation and abhorrence that our copious language affords. There is no mistaking the language of these men, nor the nefarious scheme which was so cunningly devised. The marshal *was not to take for granted that an appeal would be interposed.* The moment the decision was had, they were to be forcibly hurried off by this Government officer, who seems to have been very willing to act his part in this detestable business. No time was to be allowed. The appeal must "actually have been interposed." The interposing an appeal might require a short time, but no time was to be allowed. These *friends of liberty* were impatient for the removal of these negroes to a state of slavery or death. Their anxiety was so great for the transfer of the question of freedom or slavery, out of pretended tenderness to those miserable men, to the tender mercies of the court of Cuba, that they could not wait for an appeal to be interposed to the highest court of the nation! They must be sent to the Island of Cuba for a *fair trial* forthwith! The Supreme Court of the United States could not be trusted, and the laws of God and man must be violated in the persons of these wretched people!

I regret to say, sir, that most of the leading actors in this horrible business were northern men from the free States, who had not the excuse of the early habits and prejudices of persons from the slave States. It is ever so. When, on this question of slavery, men born and bred at the North, with all the fixed opinions and deep feelings of northern men, from ambition or baser motives, sell themselves to the South, they shrink from nothing, but are ready to do the dirtiest jobs, and perform the vilest services.

Mr. Chairman, I know that, although born and bred at the South, (Mr. CABELL, of Florida, was in the chair,) your feelings of indignation and abhorrence at these transactions are as strong as my own. I see around me many southern gentlemen who have the opinions of the country from which they come—prejudices, as I think—on the subject of slavery. I know, sir, that these gentlemen think as I do as to the course proposed with regard to those Africans. I am sure, sir, that they must scorn the baseness of such propositions, and utterly despise the men who would make them. An appeal to those northern Democrats who are devoted to the South, is, I am aware, quite in vain; but on a question like this, I know that I could rely upon many honorable gentlemen from the South before me in the full and unmeasured expression of indignation at the course pursued by Mr. Van Buren and his Secretary of State and prosecuting attorney.

Never, Mr. Chairman, as long as I live could I give my vote for paying one dollar to the Spanish Government for those negroes. The claim is not only utterly groundless, and wholly without the slightest pretence of right, but based on principles which I utterly condemn and abhor.

APPENDIX.

On the 14th May, 1818, Don Luis de Onis, in a communication to the Secretary of State, says:

"All these considerations combining with the 'desire entertained by his Majesty, of coöperating 'with the Powers of Europe in putting an end to 'this traffic, which, if indefinitely continued, might 'involve all in the most serious evils, have deter-'mined his Majesty to conclude a treaty with the 'United Kingdom of Great Britain and Ireland, 'by which *the abolition of the slave trade* is stipu-'lated and agreed on, under certain regulations; 'and I have received his commands to deliver to the 'President a copy of the same; his Majesty feel-'ing confident, that a measure so completely in 'harmony with the sentiments of this Govern-'ment, and of all the inhabitants of this Republic, 'cannot fail to be agreeable to him."

The treaty referred to was signed at Madrid the 23d September, 1817. On the 28th June, 1835, another treaty was concluded between Spain and Great Britain, the first and second articles of which are as follows:

"ART. 1. The slave trade is hereby again de-'clared, on the part of Spain, to be henceforth 'totally and finally abolished in all parts of the 'world.

"ART. 2. Her majesty, the Queen Regent of 'Spain, during the minority of her daughter Donna 'Isabella the Second, hereby engages, that imme-'diately after the exchange of ratifications of the 'present treaty, and from time to time afterwards, 'as may become needful, her Majesty will take 'the most effectual measures for preventing the 'subjects of her Catholic Majesty from being con-'cerned, and her flag from being used, in carrying 'on, in any way, the trade in slaves; and that

'especially that, within two months after the said 'exchange, she will promulgate throughout the 'dominions of her Catholic Majesty a penal law, 'inflicting a severe punishment on all those her 'Catholic Majesty's subjects who shall, under any 'pretext whatever, take any part whatever in the 'traffic in slaves."

On the 2d November, 1838, a royal order was addressed to the Governor General of the Island of Cuba, referring to the fact of "the clandestine introduction of black slaves," and directing the prosecution of all persons engaged in "this deplorable contraband," "before competent tribunals, for their exemplary punishment," &c.

Extract from document No. 185, 1st session, (Executive Document, House of Representatives,) twenty sixth Congress, pp. 67–69.

DEPARTMENT OF STATE, *January* 2, 1840.

The vessel destined to convey the negroes of the Amistad to Cuba, to be ordered to anchor off the port of New Haven, Connecticut, as early as the 10th of January next, and be in readiness to receive said negroes from the marshal of the United States, and proceed with them to the Havana, under instructions to be hereafter transmitted.

Lieutenants Gedney and Meade to be ordered to hold themselves in readiness to proceed in the same vessel, for the purpose of affording their testimony in any proceedings that may be ordered by the authorities of Cuba in the matter.

These orders should be given with special instructions that they are not to be communicated to any one.

The Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT, *January* 3, 1840.

SIR: I have the honor to state, that in pursuance of the memorandum sent by you to this department, the United States schooner Grampus, Lieutenant Commanding John S. Paine, has been ordered to proceed to the bay of New Haven, to receive the negroes captured in the Amistad. The Grampus will probably be at the point designated a day or two before the 10th instant, and will there await her final instructions in regard to the negroes.

Lieutenants Gedney and Meade have been ordered to take passage in the Grampus for Havana, to give testimony there respecting the capture of the Amistad.

I am, very respectfully, your obedient servant,
J. K. PAULDING.

Hon. JOHN FORSYTH, *Secretary of State.*

The Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,
Washington, January 7, 1840.

SIR: I have received your letter of the 3d instant, stating that, agreeably to a memorandum furnished you from this department, orders had been given to Lieutenant Commanding John S. Paine, of the schooner Grampus, to proceed off the port of New Haven, and be in readiness to receive on board his vessel the negroes of the Spanish schooner Amistad, for the purpose of conveying them to Cuba, in the event of their delivery being adjudged by the circuit court, before whom the case is pending. It will be expedient for Lieutenant Paine, on his arrival off New Haven, to place himself in communication with Mr. W. S. Holabird, the attorney of the United States for the district of Connecticut, to whom corresponding instructions have been given, in order that he may receive the earliest information of the decision of the court, and advise with him as to the mode of carrying it into effect. I enclose an order from the President to the marshal of the district, directing him to place the negroes at the disposition of Lieutenant Paine, who, on being informed of the decision of the court, will serve it upon the marshal. Lieutenant Paine will likewise receive from the district attorney an authenticated copy of the records, documents, and evidence in the case, which he will convey to Cuba, to be used by the authorities of the island in any proceedings which they may institute in relation to it. On his arrival at Havana, he will give notice of it to the consul, with the enclosed letter, explanatory of the object of his visit; and will, in every respect, conform with such suggestions as he may receive from him with regard to the delivery of the negroes and papers to the authorities of the island. In a letter addressed by this department to the Spanish minister, his interference with the authorities of Cuba has been requested, in order that such testimony as it may be desirable to obtain from Lieutenants Gedney and Meade be taken as speedily as possible.

It is hoped, therefore, that those officers will be detained but a short time at Havana, and that they may return in the Grampus, if it shall suit the convenience of the Navy Department to afford them a passage home in that vessel.

I have the honor to be, sir, your obedient servant,
JOHN FORSYTH.

Hon. JAMES K. PAULDING, *Secretary of the Navy.*

The marshal of the United States for the district of Connecticut will deliver over to Lieutenant John S. Paine, of the United States navy, and aid in conveying on board the schooner Grampus, under his command, all the negroes, late of the Spanish schooner Amistad, in his custody, under process now pending before the circuit court of the United States for the district of Connecticut. For so doing, this order will be his warrant.

Given under my hand, at the city of Washington, this 7th day of January, A. D. 1840.

M. VAN BUREN.

By the President:
JOHN FORSYTH, *Secretary of State.*

DEMOCRACY.

SPEECH OF MR. DAVID FISHER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

August 8, 1848.

The House being in Committee of the Whole on the state of the Union, and having under consideration the River and Harbor Bill—

Mr. FISHER said: That some days since, when the Oregon bill was before the House, he tried to get the floor, but did not succeed, to give his views on the subject of the extension of slavery; but as that bill had now passed the House and was before the Senate, and the subject had been discussed till it was worn threadbare, he would relieve the minds of the committee a little by discussing a subject which had often been alluded to in the speeches of gentlemen, especially on the other side of the House; and as "variety is the spice of life," he would say some things on the subject of Democracy.

Being no lawyer, and not professing to be competent to judge of refined and hair-splitting discussions as to the construction to be put on the various provisions of the Constitution of the United States, he had no safe way to judge of the true intent and meaning of that instrument, save by looking at the course of those who had framed it, to see what they understood it to mean, and that he received as its true meaning. The wise and patriotic men who framed the Constitution were surely the best judges of what it meant; and when he could find out what they thought to be its meaning, he was satisfied, and that he took to be its true meaning. They had established this Government, and whatever they instituted must be of course constitutional. This was enough for him. Men might refine and speculate with great ingenuity, and advance contradictory arguments both sufficiently plausible to perplex a plain man; the only way to arrive at a satisfactory conclusion was to ask, what did our forefathers think, who created the Government?

Judging by this rule, he found that among other things that were constitutional was the prohibition by Congress of slavery in the Territories. The power of Congress to make a regulation of that kind never had been questioned till about one year since; and, therefore, he came to the conclusion that all the arguments adduced against it were false, and of no force.

But he would not pursue that point any further, but intended at some future time, and on a proper occasion, to fully discuss it.

Much had been said, as well here as elsewhere, about the Democracy of one side of this House, and the Federalism of the other. There was a direct reference to this in Mr. Cass's letter accepting his late nomination by the Baltimore Convention. He there argued that the party now called Democrats was the old original Democratic party of this country; while those calling themselves Whigs were none other than the old Federal party originated by Alexander Hamilton. Now, on the truth of this position, he wished to say a few words, to which he invited the particular attention of his Democratic friends.

Mr. F. claimed that the Whig party of the present day were the same original Democratic party which had existed in this country ever since the days of the Revolution. And he insisted further, that, whatever their opponents might be, they were not the Democracy of this country—they had no claim whatever to be the lineal descendants of the original and true Democracy of the days of Washington, Jefferson, and Madison.

Democracy was a matter of principle; it could not change. What was Democracy in the days of Greece and Rome was Democracy now. What had been Democracy at the time of the foundation of this Government must be Democracy still. If any body of men made "progress" from those principles and from that sort of Democracy, they were not and could not be any longer the Democratic party.

Mr. F. would turn the attention of the committee to this point. He should not enter into an elaborate argument to prove what Democracy was. He should on that subject take as his premises that which gentlemen on the other side would not deny—viz: that the Democratic party had had possession of the Government of this country from the beginning of Mr. Jefferson's term as President, in 1801, down to the end of Mr. Monroe's, in 1825. For twenty-four years. During the whole of that period the Administration was Democratic. This all would admit. Here, then, was the foundation. Theirs was true Democracy; it was a mere truism to affirm this—none denied it. To this standard he would bring the present parties, and test their Democracy.

Now, Democracy did not consist in the name; it consisted in a set of principles. The name by which a party has called itself, or was called by others, was a matter of no consequence. A name would not make one party Federalists, or their opponents Republicans. It was the principle that made the thing. If a body of men held the principles of Democracy, they were Democrats; if not, they were not. If, then, those called Whigs held Democratic principles, were they not Democrats? If it could be shown that the principles they held were the old admitted original principles of Democracy, it must be admitted that they were in fact and in truth Democrats, and nothing but Democrats.

A gentleman [Mr. BRODHEAD] asked him, if this was so, why they did not, then, call themselves Democrats? They did; but, for distinction's sake, they were called Whigs. [A laugh.] Our fathers were Whigs, Democrats, and Republicans, for they are all the same thing.

Now, Mr. F. would ask gentlemen on the other side of that Hall, what single principle they held, or what single measure they advocated, which had been advocated and held by the original Democratic party of this country? Not one; not a single one. This may astonish some gentlemen, but it is true, as we shall soon see. The Whigs did; they held to every one of the leading principles and measures of that party. They were the true lineal descendants of the party of Thomas Jefferson.

He spoke of them collectively as a party; they were not to be judged from the opinions or the course of an individual or individuals. They ought to be judged by their *acts* and from public documents, acknowledged by the party, as, for instance, the Baltimore platform and Cass's letter. By this standard Mr. F. would now try them.

When the old Democratic party, in the beginning of the Government, adopted a course of measures, that course was either constitutional, or those who pursued it perjured themselves, or they did not understand the Constitution; but no one dare say that they perjured themselves, or that they

Libel of Lieutenant Thomas R. Gedney, on behalf of himself and the officers and crew of the U.S. Brig Washington, August 29, 1839

The Washington was the brig that seized the Amistad off the coast of Long Island. Its commander was Lt. Thomas R. Gedney. In his libel, or written statement, to Judge Andrew T. Judson of the district court, he described the encounter with the Amistad. Because he sought salvage of the schooner and its cargo, he was very detailed in his account and itemized all of its cargo, estimating its value at $40,000 and the value of the Africans as slaves at $25,000. In maritime law, compensation is allowed to persons whose assistance saves a ship or its cargo from impending loss. The libelants claimed that with great difficulty and danger to themselves they recaptured the Amistad from the Africans. They claimed that had they not seized the vessel, it would have been a total loss to its "rightful" owners. Therefore, Gedney and his crew believed they were entitled to salvage rights. At that time in U.S. history, even individuals acting in their official capacity as officials of the government were entitled to salvage rights.

In addition, Gedney relayed that the Africans could speak only native African tongues and that one of the two Spaniards, Jose Ruiz, spoke English. Gedney included in his libel the account of the mutiny as told by Ruiz.

District of Connecticut. ss.

The President of the
United States of America to the
Marshal of the District of Connecticut.
Greeting -

Whereas a libel is filed in
the District Court of the United States for
said District in behalf of Thomas R.
Gedney for himself and others against the
Schooner Amistad and the cargo of
her tackle boats &c. which libel is in the
words following, to wit,

To the Honorable Andrew T Judson Esq
Judge of the District Court of the United
States in and for the District of Connecticut

The libel of Thomas R Gedney Lieute-
=nant in the United States Navy Commanding
the United States Surveying Brig Washington
employed in the Service of the United States
in the Coast Survey. and on behalf of Richard
W Mead a Lieutenant on board said Brig
and the officers and Crew of said Brig Wash=
=ington and all others interested in cutitled
Humbly Sheweth — That on the 26th day
of August A D 1839 the said libellant being
in with said Brig Surveying between Montauk
Point & Gardiners Island in the State of New
York discovered a Strange and Suspicious looking
Vessel off Culloden Point near said Montauk
Point. that they took possession of said Vessel
which proved to be a Spanish Schooner called the
Amistad of Havanna in the Island of Cuba
of about 120 tons burthen. and the said libellants
found said Schooner was manned by forty five
negroes. some of whom had landed near
said point for water & there were also on board
two Spanish Gentlemen who represented and
as the Libellants verily believe were part owners
of the Cargo & of the Negroes on board who were
Slaves belonging to said Spanish Gentlemen.
That said Schooner Amistad sailed on the

28th Day of June A.D 1839 from the Port of Havanna
bound to a port in the Province of Principe
both in said Island of Cuba under the Command
of Raymen Ferrer as master thereof, that said
Schooner had on board and was laden with
a large & valuable Cargo Consisting of and Amounting
as the libellants believe to be. 1 box with 4 fowling
pieces 1 Crate 11 boxes Crockery & Glassware. 200 Boxes
Vermicelli. 15 ps linen Stuff. 1 Case Sugar. 25 Bags
Beans. 25 Boxes Raisins. 50 Horse equipments. 10 Dz
Morocco Skins. 5 Dz Calf Skins. 5 Saddles. 2 Dz Bitts
200 feet Rods. 20 Sides Sole Leather. 6 iron Drums for
warehouse. 8 Crowns 1 Box with 200 Images. 3 Iron
Kettles. 14 packages Common Linen. 4 packages Holland
linen. 4 dz parasols or umbrellas 30 pieces Muslin 10
yds each. 2 doz ps Hose 3 doz Ovens 21 Ingots 90 ps
Silesia 2 ps Victoria 9 ps Drilling 34 ps Long lawn
54 ps Calicoes 5 ps Laces 14 ps Muslins 65 ps Stripes
24 ps Stripes 148 ps Ribbons 10 ps Linen Cambric 45 ps
Glazed Linen 4 ps Rouen Cassemere 1 Dz Shawls
Fans. Gloves. Shirts. Tapes thread. Towels umbrellas
29 Muslin Drss patterns 16 woolen Shawls 4 Silk Do
15 Rugs Buttons Saddles 75 ps Stripes 48 ps Silesia
30 ps Long lawn 1 ps Black H Kffs 7 ps French Linens
8 Dz Linen Cambric H Kffs umbrellas 42 ps Striped
Robbins 2 ps Ribbons 6 Colored Mantles 40 ps
linen Cambric 800 yds Striped linen 2 ps of Merino
30 Drss patterns 6 Musquito netts 6 ps Satin 18
Blankets 1 box Hardware 12 Dz H Kffs 18 ps Coarse
linen 50 Vols Books. 2 Boxes Books. 70 Sheets

of Colspun. Hardware 50 Demijohns Olive Oil 20 Boxes Vermicelli 20 Quintals Jerked Beef 15 Sides Sole Leather 6 Kegs Olives 2 Quintals Hams 190 ps Muslins 26 ps Stripes 3 ps Brown Drilling 4 ps linens 21 ps Colourd fine linens 11 doz Ladies Hose 2 Doz Belts 10 doz linen Cambric Ndkffs 12 Common Do and a large quantity of Silks Linens Hardware & provisions to the Amount in all of $40,000 Dollars — And also fifty four Slaves to wit fifty one male Slaves and three young female Slaves who were worth Twenty five thousand Dollars. and while on said voyage from Havanna to Principe the said Slaves rose upon the Captain & Crew of said Schooner & Killed & murdered the Captain & one of said Crew & two more of said Crew escaped & got away from said Schooner. that the two Spaniards on board. to wit Pedro Montes and Jose Ruis — remained alive on board said Schooner after the murder of the Captain and after the said Negroes had taken possession of said vessel & Cargo that their lives were spared to assist in the Sailing of said vessel & it was directed by said Negroes that said Schooner should be navigated for the the Coast of Africa & said Pedro Montes & Jose Ruis did accordingly steer as thus directed & compelled by said Negroes at the peril of their lives in the day time & in the night altered their Course & steered for the American Shore. but after more than two months on the Ocean they succeeded in coming round Montauk point. then they were discovered and

boarded by the libellants and the said two Spanish Gentlemen begged for and claimed the aid and protection of the libellants, that said Schooner was accordingly taken possession of & recaptured from the hands & possession of said Negroes who had taken the same as aforesaid & that said Schooner was brought into port of New London in the District aforesaid where she now is and said Schooner would with great difficulty exposure and danger have been taken by the Libellants but for the surprise upon the said Blacks she had possessed themselves of a part of whom were on Shore, and but for the aid assistance and services of the Libellants the said vessel and said Cargo would have been wholly lost to the respective owners thereof— That said Cargo belongs to divers Spanish Merchants & others resident in said Island of Cuba & to the said Pedro Montes & Jose Ruiz the latter owning most of said Slaves—

Now inasmuch as the said Thomas R Gedney & said officers & Crew have with so much difficulty & danger saved said Schooner Amistad and said Cargo and said Slaves which would otherwise in all human probability have been totally lost to the Owners thereof respectively will your Honor please to order the said vessel to be attached and taken by the process of this Honorable Court and that a monition issue to all persons concerned to show cause if any they have why a reasonable Salvage should not be decreed thereon to the Libellants & all others entitled

and that such further and other Steps shall be taken as the Course of this Honorable Court shall direct — Thos R Gedney Lieut Comg U S Brig Washington

R W Meade by I Isham his atty
Lieut U S N

District of Connecticut ss
District Court at New London Aug 29th 1839

Personally appeared Richard W Meade and made oath to the truth of the foregoing libel according to his best knowledge & belief —

attest
Chas A Ingersoll
Clerk

And whereas said libel has been allowed by said District Court, and the trial thereof directed to be had at a Special District Court of the United States for said District to be held at Hartford in said District on the 19th day of September A.D. 1839 at 10 o clock A.M. and the Clerk of said District Court is directed to issue all necessary and proper process thereon — These are therefore to command you to take the said Schooner Amistad, and the articles of personal
11 property mentioned in said libel into your possession and custody and them detain subject

to the order of said Court. Hereof fail not but make due service and return. Witness the Hon. Andrew T. Judson District Judge of the District of Connecticut at New Haven this 29th day of August A.D. 1839.

Chas. A. Ingersoll
Clk.

District of Connecticut ss.

New London (Harbor) Augt 30th 1839

Then by virtue of this warrant at said New London (2 miles down the Harbor) I took into my custody & keeping the aforesaid described Schooner Amistad her tackle, apparel & furniture together with her cargo libelled as aforesaid & them hold subject to the order of the court to which this warrant is returnable. And the said Cargo being found to be in a damaged State & daily receiving more damage I have discharged the same & found the Cargo to Inventory as follows to wit —

2 Pieces Ticking 2 Yds ea 4 Yds. 68 Pieces Cotton Stripes and Checks 190 Yds, 2 pieces Cotton Striped Gingham 3¾ Yds 1. Ditto 8 Yds, 1 ditto 4 Yds 3 pieces Ticking 5½ Yds, 1 Piece Pink Muslin fig.d 17½ Yds, 4 Musquito Nets, 3 Cotton Hdkfs, 12 blue cotton Shawls 21 Cotton Hdkfs, 3 pieces dark calico 4 Yds 1 Piece blk Merino 2 Yds 1 Piece Green Satin gauze 22 Yds 10 Prs Cotton socks, 4 Scotch caps, 1 Box Artificial flowers, 5 Pieces Madras Hdkfs. 1 Piece dark Gingham 8 Muslin capes, 3 Pieces cotton lace 3 Pieces Linen Cambric 3 Pieces book Muslin, 3 Pieces wide cotton Lace 1 piece coach Lace, (21 Yds) 1 piece wide cotton Lace [illegible] Yds 1 Piece Satin gauze Ladywork 8 Yds 1 ditto black 11 Yds, 1 ditto Striped 20 Yds 2 pieces wide cotton lace 5 pieces checked gingham 70 Yds 4 Pieces Ticking 37¾ Yds 9 pieces Bolting 17½ Yds 10 pieces checked cotton 180¾ Yds 5 pieces Striped Jean 95½ Yds

9 pieces Light Striped Gingham 4 pieces check? Gingham 283/4 Yds, 1 Bale Striped Ticking 8 pcs
1 Ditto 7 pcs. 1 Box dry goods P M F. 1 Box Madras Handkfs P M. 1 Bale Cotton Stripes
& Checks 8 pcs. 1 Box Linen 41 pcs. 12 Cotton Handkerchiefs. 11 Shawls. 1 pcs Jaconet
Muslin 12 Yds. 9 pcs Gingham (each 15 yds) 135 yds. 3 pcs ditto. one dress in each
pcs. 1 pcs Black Marino full pcs. 1 pcs ditto. 4 Rolls 6 pcs Linen 42 3/4 yds. 2 pcs
Stripes Lawn 40. yds. 1 pcs Satin gauze 11 yds. 3 pcs Black Marino 11 yds. 5 pcs Brass plates
for Bonnetts. Part of pcs Light Linen. 46 pcs Stripes & checks 123 3/4 yds. 25 pcs Gingham
87 3/4 yds. 6 pcs Ticking 23 3/4 yds 1 pcs Calico 16 yds. 1 Bale dry goods R B No 14. 1 Bale
ditto R B No 10. 1 Bale ditto R B No 12. 1 Bale ditto R B No 13. 1 Bale ditto
A & L No torn off. 1 Box Umbrellas R B No 18. 1 Box containing 34 coils twine. 4 packages
and 61 loose glass Knobs. 1 Box dry goods R B No 4. 1 Box ditto R B. No 5. 1 Box ditto
T No 4. 1 Trunk wearing apparel No 10. (Supposed to be the Capts) 1 Box 23 pcs galoon.
6 pcs Ribbons. 10 pcs Gymp. 6 pcs pipes. 1 Box thread & lace. 26 yards. 1 Lot silk laces
1 Box needles. 1 Box Ribbons & 2 Bunches quills. 1 Box IT. 40 pcs Muslins. 1 Bundle
twine 56 Skeins. 5 Bundles Umbrellas. 86. 28 pairs Trousers. 6 Frocks. 11 British jeans
7 Shirts. 3 Coats. 2 vests. 2. Cloaks. 10 Cloths bags. 6 Empty trunks. 35 demijohns
olive oil. 194 Boxes Vermicelli S C. 2 Boxes ditto partly filled S C. 7 Boxes Raisins
S C. 1 Box Glass R B No 10. 1 Box ditto. R B No 8. 1 Part box Chests T H. 12 Boxes
Castile Soap S C. 2 ditto part full S C. 1 Box dry goods T. 1 Box ditto R B
No 16. 1 Box ditto. A & L No 4. 1 Box ditto T No 3. 1 Box ditto T No 5. 1 Box
ditto P M F. 1 Box ditto R B No 6. 1 Box Soap R (part full). 1 Box. books A No
1 Box part full of books. R B No 15. 5 Muskets (in bad order) 1 Box crockery
R B. No 7. 1 Box Leather A R & C. 1 Box Sheet Copper C. M & L. No 1. 1 box Looking glasses
no mark. 1 Box crockery R B. No 11. 1 Ditto R B. No 9. 1 Bale Calf skins J V. No 2
1 Ditto No 3. 1 Box Crockery R B No 4. part full. 1 Box Horse equipments J V No 1
1 Box dry goods A & L No 11. 1 Box crockery R B. No 6. 1 ditto No 2. 1 ditto No 3
1 Empty Keg. 1 Empty demijohn. 1 Bbl pitch F & C. 1 Keg snuff C & C. 1 small
roll window blinds. 1 Mariners Compass (brass) 1 Spy glass. 5 papers of Coffee
(Ground). 2 Horse pistols. and one pocket ditto. 7 Doz dog plate loose. blue & green
edged. 20 Tumblers. and one decanter. 8 glass dishes (loose). 4 teapots (loose) 2 long

bottles (contents unknown). 1 Box dry goods A y L No. 9. 1 ditto A y L No 2. 1 ditto No 6 1 ditto A y L No 8. 1 ditto A y L No X. 1 ditto X No 1. 1 ditto A y L No 10. 1 ditto A y L No 5. 6 pictures. 1 Box dry goods R.B. No 1. 1 ditto A y L No 3. 3 Iron Pots SC. 1 Bundle twine 46 Skiens. 2 Bundles 21 Sticks carriage tops. 1 Keg of Iron wedges. 1 Saddle. bridle. & holsters. 1 Roll Morocco Skins DC. 2 Pieces. and part Bbl peace. 12 bags ditto SC (both in bad order) 1 Box Machites EF (cane knifes) 1 Keg Snuff ER y C. 1 Box Screws. 6 Screw Augurs. 1 Spike gimblet. 1 Box containing 48 packages of fancy articles. cont. &c. R.B. 1 Roll Sole Leather GR. 4 Rolls of Sole Leather JV. Nos. 4.5.6.7. and also a quantity jirked beef.

Attest Norris Willcox U.S. Marshal
for Conn. Dist.

District of Connecticut Ss.

New London August 30th 1839

Then I took into my Custody & Keeping by Virtue of the foregoing Warrant of Seizure forty three out of the fifty four Slaves within named to wit forty Males & three Females being all I am able to find within my precinct, whose Names are as follows viz. Cinque, Antonio, Burnah 1st, Corboo, Pommah, Fourrie 1st, Dunah, Woluwah, Tooah, Conomah, Choolay, Burnah 2d, Baah, Cabbah, Poomah, Kimbo, Poca, Bang-ye-ah, Saah, Carlee, Parole, Moirah, Gahonie Narquoi, Quarto, Sepe, Con, Fourrie 2d, Kinnah, Lannmanu, Fahjanah, Faah, Yahboy, Fahquannah, Berrie, Fawnee, Chackamaw, Gabbow, Carre, Ferne, Kene, Mahgra, Faja & them hold subject to the order of the Court to which this warrant is returnable. –

Attest Norris Willcox U.S. Marshal
for Dist of Connect.

Thomas R. Gedney
vs
Schooner Amistad &c.
Warrant of Seizure

Answer of S. Staples, R. Baldwin, and T. Sedgewick, Proctors for the Amistad Africans, to the several libels of Lt. Gedney, et. al. and Pedro Montes and Jose Ruiz, January 7, 1840

After the Amistad was seized, the schooner, its cargo, and all on board were taken to New London, CT. Had it not been for the actions of abolitionists in the United States, the issues related to the Amistad might have ended quietly in an admiralty court. But they used the incident as a way to expose the evils of slavery and generate significant opposition to the practice. Abolitionists asked Roger S. Baldwin, a lawyer from New Haven, and two New York attorneys, Seth Staples and Theodore Sedgewick, to serve as proctors for, or represent, the Africans. The answer to the libels of Lt. Gedney, et. al. and Pedro Montes and Jose Ruiz that the proctors submitted to the district court conveyed the position of the Africans.

United States of America
District of Connecticut ss.
District
Special Court holden at New Haven in said
District on the 7th of Jany 1840.

To the Honorable Andrew T. Judson Judge of the District Court of the United States in and for the District of Connecticut

The several answer of Singue, Burnah, Dammah, Fourni 1st otherwise called Foulwa, Shuma, Conoma, otherwise called Ardhaulee Chorlay, Burnal 2d Baah, Poona, Kembo Peah Bangyeah, Saah, Carle, Parli, Momah, Nal qui Quato, Sepe, Con otherwise called Keony, Fourni 2d otherwise called Pouli wa he, Kennah, Lamana, Fayanah, Yabboy, Fayanah, Berne, Fawna, Chockpman, Gabbo, otherwise called Galabara, Carr, Tem, Nem & Mahgu Africans, now in the custody of the Marshall of said District under Color of process issued from this Honorable Court on the 29th day of August 1839 against the Schooner Amistad and the Articles of personal property on board of her then lying in the harbor of New London in said District on the libel of Lieutanant Th. R Gedney a Lieutanant in the United States Navy Commanding the United States Brig Washington in the service of the United States in the coast survey, and on behalf of Richard W. Meade Lieut on board said Brig, and the Officers and crew thereof and all others interested or entitled, claiming salvage to be awarded to them by this Honorable Court as for a meritorious service, in seizing and securing the Respondents severally and holding them as slaves to certain Spaniards belonging to the island of Cuba, named in

47.

said libel. — and also under process of this Honorable Court issued and served at Hartford on the 18th day of September 1839 while the Respondents were in custody of the Marshall of said District as aforesaid viz at Hartford within the body of the State and District of Connecticut on the libel and claim of William S. Hollabird Esq. United States District Attorney for said District of Connecticut and the libels respectively of Pedro Montes & Jose Ruiz, and also under process of this Honorable Court issued at Hartford aforesaid on the 19th day of November 1839 on the claim and representation of the said District Attorney then and there made and filed.

The said respondents severally by protestation not admitting or acknowledging that the Government of the United States, or any department, Court, or officer thereof hath jurisdiction over the persons of these Respondents or any of them, by reason of any of the allegations & proceedings aforesaid, & not confessing or acknowledging any of the matters & things in the libellants said several libels & claims to be true in manner and form as the same are therein and thereby alledged, appear before this Honorable Court, and for answer to the several libels, claims & representations aforesaid severally say.

That they and each of them are natives of Africa and were born free, and ever since have been and still of right are and ought to be free and not slaves, as is in said several libels or claims pretended or surmised — that they were never domiciled in the Island of Cuba, or in the dominions of the Queen of Spain, or subject to the laws thereof — that on or about the 15th day of April 1839 they and each of them were in the

land of their nativity unlawfully Kidnapped and forcibly and wrongfully by certain persons to them unknown, who were then and there unlawfully and piratically engaged in the slave trade, between the Coast of Africa and the island of Cuba contrary to the will of these Respondents unlawfully, and under circumstances of great Cruelty, transported to the S^d. island of Cuba, for the unlawful purpose of being sold as slaves, and were there illegally landed for the purpose aforesaid.

That Jose Ruiz one of the said Libellants well knowing all the premises, and confederating with the persons by whom the Respondents were unlawfully taken and holden as aforesaid, and intending to deprive the Respondents severally of their liberty, made a pretended purchase of the said Respondents except the said Cano Ome Kem and Mahgue, and that the said Pedro Monter also well knowing all the premises and confederating with the said persons for the purpose aforesaid made a pretended purchase of the said Cani, Jeme, Kem & Mahgue, That said pretended purchases were made from persons who had no right whatever to the Respondents or any of them, and that the same were null and void, and conferred no right or title on the said Ruiz or Monter or right of control over the Respondents or either of them. That afterwards on or about the 28th. day of June 1839 the said Ruiz & Monter confederating with each other and with one Ramon Ferro now deceased, Cap^n. of said Schoon Amistad & others of the crew thereof caused Respondents severally without law or right under color of certain false and fraudulent papers by them procured & fraudently used for that purpose to be placed by force on board said Schoon to be transported with said Ruiz

49.

and Montez to some place unknown to the Respondents and there enslaved for life: — That the Respondents, being treated on board said Vessel by said Ruiz and Montez, and their confederates with great cruelty and oppression, and being of right free as aforesaid were incited by the love of liberty natural to all men, and by the desire of returning to their families and kindred, to take possession of said Vessel, while navigating the high seas, as they had right to do with the intent to return therein to their native Country, or to seek ~~such~~ an asylum in some free State where slavery did not exist, in order that they might enjoy their liberty under the protection of its Government — that s^d. Schooner on or about the 26^th. of August 1839 arrived in the possession of the Respondents at Culloden point near Montauk and was then anchored near the shore of Long Island or within hailing distance thereof and within the waters and territory of the State of Newyork — that the respondents, Sinqua, Carlee, Dammah, Baah, Moru, Nahquoi, Quato, Con, Fajanah, Berri Gabbo Fouleaa Kimbo. Faquannah Conoma otherwise called Ndzar-bu, Yabi Burnah 1^st. Shuma, Fawni Pesi Ba^t Shule, while said Schooner lay at anchor as aforesaid went on shore within the State of Newyork to procure provisions and other necessaries and while there in a State were slavery is unlawful and does not exist under the protection of the Government and laws of said State by which they were all free, whether on board of s^d. Schooner, or on shore the Respondents were severally seized, as well those who were on shore as aforesaid as those who were on board of & in possession of said Schooner by the said Lieut Gedney, his officers and crew of said United States Brig Washington without any lawful warrant or authority whatever, at the instance of said Spaniards, Ruiz and Montez, with

the intent to keep and secure them as slaves to the said Ruiz and Montez respectively and to obtain an award of salvage therefor from this Honorable Court as for a meritorious act. That for that purpose the Respondents were by the said Lieut. Gedney, his officers and crew aforesaid forcibly and unlawfully withdrawn from the jurisdictional limits of the State of New York and brought to the port of New London aforesaid and while there and afterwards under the subsequent proceedings in this Hon Court taken into the Custody of the Marshall of said District of Connecticut and confined and held in the goal in the cities of New Haven and Hartford respectively as aforesaid. Wherefore the Respondents severally pray that they and each of them may be set free, as they of right are and ought to be, and that they be released from the custody of the Marshall under the process of this Hon. Court under which or under color of which they are holden as aforesaid."

S. P. Staples, R. S. Baldwin
& T. Sedgwick
Proctors

And at said ~~District~~ Court holden at New Haven in said District on the 7th day of January A.D. 1840, here in open court, come now Antonio Tellincas and the house of Aspe & Laca, subjects of the Queen of Spain, and by consent of the Court file their claim in the words following to wit

Statement of the Supreme Court to Circuit Court, March 9, 1841

Following its decision, the Supreme Court submitted this statement to the lower court where the case originated. The statement indicated that the decision of the circuit court was in part upheld and in part reversed. The part that was upheld related to the freedom of the Africans. The part that was reversed related to Judge Andrew T. Judson's application of the Congressional Act of March 3, 1819. Judson's decision authorized the President to return the Africans to Africa. Ultimately, the abolitionists arranged for their return in early 1842.

United States of America, ss:

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the Circuit Court of the United States for the District of Connecticut

greeting:

WHEREAS, lately, in the Circuit Court of the United States for the District of Connecticut before you, or some of you, in a cause, between The United States, Jose Antonio Tellineas and others Appellants from a decree of the District Court of the United States for the District of Connecticut, and Jose Pinques Cotton, severally Claimants and Appellees, wherein the said Circuit Court affirmed the decree of the said District Court except as respects the claims of Jose Antonio Tellineas and the House of Aspa and Laa—

as by the inspection of the transcript of the record of the said Circuit Court which was brought into the Supreme Court of the United States, by virtue of ~~a writ of error~~ an appeal agreeably to the act of Congress in such case made and provided, fully and at large appears.

And whereas, in the present term of January in the year of our Lord one thousand eight hundred and forty one the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel; on consideration whereof, It is the opinion of this Court that there is Error in that part of the decree of the Circuit Court affirming the decree of the District Court which ordered the said Negroes to be delivered to the President of the United States to be transported to Africa in pursuance of the Act of Congress of the 3d of March 1819; and that as to that part it ought to be reversed; and in all other respects that the decree of the Circuit Court ought to be affirmed— It is therefore ordered, adjudged and decreed by this Court that the decree of the said Circuit Court be and the same is hereby affirmed except as to the part aforesaid, and as to that part, that it be reversed; and that the cause be remanded to the Circuit Court with directions to enter in lieu of that part a decree that the said Negroes be and are hereby declared to be free, and that they be dismissed from the custody of the Court and be discharged from the suit and go thereof quit without day. March 9th—

You, therefore, are hereby commanded that such further proceedings be had in said cause, in conformity to the opinion and decree of this Court as according to right and justice, and the laws of the United States ought to be had, the said Appeal notwithstanding: WITNESS the Honorable Roger B Taney Chief Justice of said Supreme Court, the Second Monday of January in the year of our Lord one thousand eight hundred and forty one.

Clerk of the Supreme Court of the United States.